HJR

5

HOUSE COMMITTEE REPOPT

(7)

Date Referred to Committee: March 31, 2003 **FURTHER REFERRALS: Finance**

Date of Committee Action: April 23, 2003

The JUDICIARY Committee considered: **HJR 5**

HOUSE JOINT RESOLUTION NO. 5 **CONST AM: INITIATIVE/REFERENDUM PETITIONS**

Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

Recommends it be replaced with [ ] HCS *or* **[ ] CS** *for* _____ (_____)
*For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR*_____ [ ] Same Title [ ] New Title

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
GOV	1	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	SAMUELS	✓			
	Holm			✓	
	Gara		✓		
	Ogg	✓			
Tom Anderson	ANDERSON	X			
Chair:	McGuire	✓			
Chair:					

HOUSE COMMITTEE REPORT

3-31-03

(7)

Date Referred to Committee: January 21, 2003

FURTHER REFERRALS: Judiciary, Finance

Date of Committee Action: March 25. 2003

The STATE AFFAIRS Committee considered: **HJR 5**

HOUSE JOINT RESOLUTION NO. 5 **CONST AM: INITIATIVE/REFERENDUM PETITIONS**

Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* _____ (_____)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [ ] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent _____Committee

List of Abbrev for Depts.:
ADM
CED
COR
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DFG
GOV
HSS
LAA
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero
GOV	1	✓		

***PREVIOUS* FISCAL NOTES**

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP (1)	DNP	NR (5)	AM
Paul K Seaton	Seaton			✓	
Matt Gruenberg	Gruenberg			✓	
[illegible]	Holm	✓		✓	
[illegible]	LYNN			✓	
[illegible]	Dahlstrom			X	
Chair: Bill Thomas	Weyhrauch			X	
Chair:					

23-LS0202\D
Kurtz
4/7/03

CS FOR HOUSE JOINT RESOLUTION NO. 5( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILLIAMS, Meyer

A RESOLUTION

Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** Article XI, sec. 3, Constitution of the State of Alaska, is amended to read:

Section 3. Petition. 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 **who are** [,] equal in number to **at least** ten per cent of those who voted in the preceding general election**, who are** [AND] resident in at least two-thirds of the house districts of the State**, and who, in each of those house districts, are equal in number to at least seven percent of those who voted in the preceding general election in the house district**, it may be filed with the lieutenant governor.

* **Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM February 5, 2003

SUBJECT: Initiative and Referendum Petitions (HJR 5)
(Work Order No. 23-LS0202)

TO: Representative Bill Williams
Attn: Tim Barry

FROM: Kathryn L. Kurtz KK
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Proposes amending Article XI, sec. 3 of the Constitution of the State of Alaska to impose more stringent signature requirements for initiative and referendum petitions. As amended, the constitution would require that a petition be signed by residents of at least three-fourths of the house districts in the state (an increase from two-thirds), and that the number of signatures from voters in each of those house districts be equal to at least seven percent of the number of people who voted in that district in the preceding general election.

Section 2. Specifies that the proposed amendment be placed before the voters at the next general election.

KLK:med
03-102.med

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR5
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: OOG
Title: Constitutional Amendment relating to initiative and referendum petitions
BRU: Elections
Component: Elections
Sponsor: Representative Wiliams
Requester: House State Affairs
Component No.: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**0.0**	**1.5**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by $22.0.

Prepared by: Lauri Allred
Phone 465-5347
Division: Division of Elections
Date/Time 2/28/03 9:53 AM
Approved by: Linda J. Perez, Director
Date 2/28/2003
Agency: Office of the Governor, Administrative Services

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts

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) 225-8546

MEMORANDUM

To: Representative Lesil McGuire, Chair
House Judiciary Committee

From: Representative Bill Williams

Date: March 25th, 2003

Subject: Request for Hearing

I respectfully request that HB31/HJR5, "An Act relating to initiative and referendum petitions; and providing for an effective date", be scheduled for a hearing in the House Judiciary Committee.

Attached is the following documentation:

Sponsor Statement
HB31
HJR5
Sectional Summaries from Legislative Counsel
Fiscal Notes from Division of Elections
Article XI of the Alaska State Constitution
Excerpts from the Minutes of the Alaska Constitutional Convention
A memo written by a member of my staff that should help you negotiate these minutes
Charts with data on signatures gathered in support of initiatives in recent years
The NCSL's 2002 Report on Initiatives and Referendums
Testimony from Dick Bishop in support of HB31/HJR5
Letter from Steve Borell in support of HB31/HJR5
Letter from Michael and Michelle Citti opposing HB31/HJR5

If you have any questions or need more information, feel free to contact me or my Aide, Tim Barry. Thank you for your attention to this important matter.

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts

Representative William K. Williams

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Sponsor Statement for HB 31/ HJR 5
Initiative and Referendum Petitions

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

House Bill 31 and House Joint Resolution 5 ("HB 31/ HJR 5") were introduced to encourage broad, statewide support for the idea contained within an initiative before it gets on the ballot. By including voters from all parts of Alaska in the process, the legislation promotes awareness of initiatives to people throughout the state.

The legislation supports the letter and spirit of Article XI, Section 3, of the Alaska Constitution, which requires initiative sponsors to obtain a minimum of one signature from residents of at least two-thirds of the House Districts in the State of Alaska (27 districts). HB 31/HJR 5 proposes that initiative sponsors gather signatures from residents of at least three-quarters of House Districts (30 districts). The legislation also proposes that the total number of signatures in each of those districts amount to at least seven percent of the number of people who voted in the most recent election in that district. It does not change the constitution's requirement that the total number of signatures statewide in support of an initiative or petition amount to at least ten percent of the number of people who voted in the most recent election. The legislation would put a proposed constitutional amendment on the ballot, leaving it to the people of the state to decide if these changes are warranted.

Contact: Tim Barry, Aide to Representative Bill Williams, at (907) 465-2812

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM March 3, 2003

SUBJECT: Initiative and Referendum Petitions
(HB 31, Work Order No. 23-LS0201\A)

TO: Representative Bill Williams
Attn: Tim Barry

FROM: Kathryn L. Kurtz KK
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Changes the statutory signature requirements for filing an initiative petition with the lieutenant governor. Requires that the petition be signed by residents of at least three-fourths of the house districts in the state (an increase from two-thirds), and requires that the number of signatures from voters in each of those house districts be equal to at least seven percent of the number of people who voted in that district in the preceding general election.

Section 2. Makes the same changes as in section one to the corresponding statute relating to referenda.

Section 3. Makes the act effective only if a constitutional amendment to the same effect is passed by the voters at the 2004 general election.

Section 4. Makes the act effective the same date as the constitutional amendment, if the act takes effect.

KLK:lmb
03-059.lmb

LEGAL SERVICES

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State Capitol
Juneau, Alaska 99801-1182
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MEMORANDUM February 5, 2003

SUBJECT: Initiative and Referendum Petitions (HJR 5)
(Work Order No. 23-LS0202)

TO: Representative Bill Williams
Attn: Tim Barry

FROM: Kathryn L. Kurtz KK
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Proposes amending Article XI, sec. 3 of the Constitution of the State of Alaska to impose more stringent signature requirements for initiative and referendum petitions. As amended, the constitution would require that a petition be signed by residents of at least three-fourths of the house districts in the state (an increase from two-thirds), and that the number of signatures from voters in each of those house districts be equal to at least seven percent of the number of people who voted in that district in the preceding general election.

Section 2. Specifies that the proposed amendment be placed before the voters at the next general election.

KLK:med
03-102.med

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR5
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: OOG
Title: Constitutional Amendment relating to initiative and referendum petitions
BRU: Elections
Component: Elections
Sponsor: Representative Wiliams
Requester: House State Affairs
Component No.: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type–Do not abbreviate)						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by $22.0.

Prepared by: Lauri Allred
Phone 465-5347
Division: Division of Elections
Date/Time 2/28/03 9:53 AM
Approved by: Linda J. Perez, Director
Date 2/28/2003
Agency: Office of the Governor, Administrative Services

(Revised 9/2002 OMB)

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB31
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: OOG
Title: An Act relating to initiatives
BRU: Elections
Component: Elections
Sponsor: Representative Wiliams
Requester: House State Affairs
Component No.: 21

Expenditures/Revenues (Thousands of Dollars)

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TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

The division would be able to create a spreadsheet using information from VREMS and official election returns to calculate the new district percentage requirements of the bill. This would require minimal staff time. A report would be created showing district by district numbers and percentages. This in-house report would not have an additional fiscal impact on the division.

Prepared by: Lauri Allred
Phone 465-5347
Division: Division of Elections
Date/Time 2/28/03 9:54 AM
Approved by: Linda J. Perez, Director
Date 2/28/2003
Agency: Office of the Governor, Administrative Services

(Revised 9/2002 OMB)

ALASKA CONSTITUTIONAL CONVENTION
December 16th, 1955
THIRTY-NINTH DAY
.....

COLLINS: We have submitted that to you, a committee report. It was okayed by the seven members of this Committee. Yet perhaps there was some individual feeling of members that their idea was not properly expressed in this report, and it was decided to place this report back to the Convention for the consideration of each individual member here for a full expression of his opinion, and we want to hear his opinion, and the committee itself will not feel bad about any amendment that is germane to the principles that are set forth in this report. I would like to have the different articles, I would like to read the comments of the Committee. Perhaps it might give some enlightenment into the questions that you would ask about that report. It will take very little time. Now on the commentary of the Committee on the Article of Initiative, Referendum and Recall.

"(Section 1 Initiative) The initiative is the power of the people to initiate laws themselves and to provide for a referendum on such laws without action by the legislature. This section reserves the authority of the people to initiate laws by petition and vote of the people directly.

(Section 2 Referendum) This section permits the people to require that laws passed by the Legislature be referred to a vote of the people before taking effect. This power is known as the Referendum.

(Section 3 Procedure) Many constitutions, in the states which make provision for the use of the initiative and referendum, contain a great degree of detail relating to the exercise of the initiative and referendum. This section permits the legislature to provide by law for some details, but provides that the Legislature may not restrict the substantive rights guaranteed in Section 4, nor to require procedures more difficult than provided in Section 4.

(Section 4 Petition, ballot title; election; vote required) This section sets forth certain substantive provisions and minimum procedures affecting the exercise of the initiative and referendum. To prevent waste of money on elections for laws that are unconstitutional, sponsors are required to submit a proposed law to the Attorney General for certification of its constitutionality, subject to court review, prior to the circulation of petitions. The provision is intended to stop, at the initial stage, the circulation of petitions for laws that would, even if approved by the voters, result in expensive court action.

If the legislature adopts a measure that is the subject of the initiative, the measure does not have to be submitted to the people.

Additional details of procedure may be provided by the legislature subject to the limits imposed by this section. The procedure outlined has the advantage of brevity while insuring the substantive rights to the people.

(Section 5 Restrictions) The exercise of the initiative is a fundamental right of the people, but special interest groups should not be permitted to unduly hamper the operation of the government. The restrictions in Section 5 will prevent the abuses and problems that have sometimes arisen in the states permitting initiative and referendum. Neither the initiative nor referendum can be used with regard to emergency legislation, appropriations, or measures earmarking taxes and other revenues, or for special or local laws that are of interest to only one group of people or people in only one portion of the state.

(Section 6 Recall) The right of the people to remove elected officials is preserved. The Legislature is directed to provide the methods to be used.

Commentary on the Article on Amendment and Revision

(Section 1 Methods) This section outlines three methods by which the constitution may be amended or revised. By action of two separate legislatures directly; (2) by action of one legislature and referral to the people; and (3) by constitutional convention.

(Section 2 Proposals by Legislature) The Legislature, by a two-thirds vote, may submit a proposed amendment to a vote at a general election. Use of general election is intended to insure a substantial vote on the question.

An alternate method is provided which permits the legislature, by a two-thirds vote, to submit a proposed amendment to the next legislature, but not to a succeeding session of the same legislature. If the second legislature adopts the amendment by a two-thirds vote it becomes part of the constitution without referring it to a vote of the people.

(Section 3 Constitutional Convention) The legislature is empowered to call a convention, but if the legislature does not provide for a convention each ten years, the question is submitted to the people at the following general election.

The legislature is authorized to prescribe the procedures and powers of a convention; but if it does not make such provisions, the law calling this convention will be followed insofar as practical."

That is the commentary on the articles which your Committee has put before you in the substitute report. Now on December 4, to settle the line of the Committee itself, we have drafted this as short as possible, as plain as possible, and if there is any amendments to come forth, the Committee will have no feeling. We have seven on our Committee and the Committee will answer the questions that might be put forth to members of this Committee.

CHAIRMAN R. RIVERS: Mr. Victor Rivers.

V. RIVERS: I would like to direct a question to Mr. Collins. Mr. Collins, there seems to be some difference of opinion as to whether or not the principle of the initiative and the referendum is a desirable and necessary one. I would like to have the comments or through you the comments of your Committee as to whether or not you feel the use of the initiative and referendum in any way circumscribes the idea of republican form of government, and if so is the principle of the initiative and referendum a desirable one for inclusion in the constitution as your Committee sees it.

COLLINS: I tried to infer that the draft that submitted this report would come to one thought on the matter, and I think we got together on that, and to prevent a minority report, and I think the Committee itself is pretty well satisfied with this report as presented. Now to give the individual thought of the members on this, we spent hours on it, and I don't think that the Convention would gain a great deal by that, but it would take up a lot of time. This is plain English language and to the point, and Mr. Taylor is the Vice Chairman of that. If you wish to make an explanation, Mr. Taylor, I would be glad for you to.

TAYLOR: Mr. Rivers, I might say we, the Committee, went into the historical background of the initiative and referendum. North Dakota was the first state to adopt the initiative and referendum so as to reserve to the people the power of initiating laws or either accepting or rejecting laws that have been passed by the legislature. Now, in our deliberations, I believe that we went through the laws, the constitutions of various states that have the initiative and referendum of which there are 19, and it was between about 1898 and 1928, I believe it was, that the states, practically all of the states that now have the initiative and referendum adopted the same. And in reviewing the history of the use of the referendum, I think the Committee members had differences of opinion as to whether or not the initiative and referendum should be included in the constitution. Although it has not been used a great deal in the last few years in some of the states that did use it before, the initiative and referendum is there and it serves a useful purpose in this way that the legislature does know that the people have reserved to them the right to initiate legislation and the right to pass upon legislation that has been passed by the legislature, so that ultimately they can, if they deem fit, can guide the legislature or guide the lawmaking in certain particulars. Now in practically all the states that have the initiative and referendum there are certain limitations put upon the matters that can be

acted upon by those measures. Now appropriations are not subject to the initiative or the referendum. Some states made a great mistake by not restricting the initiative measures and allowed pressure groups to gather great numbers of signatures to a petition and that petition would require the expenditure of large amounts of money, perhaps a great deal more than the state could possibly afford and sometimes they would also initiate some legislation to raise money, a revenue measure and then directed that the proceeds of that measure would be utilized for a particular purpose. In other words, it took the making of revenue measures and expenditure of the funds away from the legislature and in some instances the governmental functions and governmental institutions suffered a great deal. And it was necessary within as short a time as possible to undo the damage that has been done. Now in this present proposal as the Committee returned it, and I might say as Mr. Collins, our Chairman has said, that this does constitute, you may say, the compromise thought of the Committee. We were several weeks. We had differences of opinion. Some of the members of the Committee thought that all the details of the proposal, or all the details of the matter, should be spelled out to the minute degree, and others felt that they should have the bare outline of granting the right to reserve powers to the people and then letting the legislature set up the machinery for implementing, so we have included in this proposal the least number of details that we could. Now of course our first sections there is the right of the people.

V. RIVERS: May I ask a question. Before I go into the sections I was trying to determine, I think it is absolutely essential before we include anything in the constitution or in the laws that we determine three things: first, the desirability; second, the need; and third, the workability. Now I have gathered from what you said that your Committee considers the initiative and referendum desirable in the constitution.

TAYLOR: Well, I think on the matter that we have it in here now it is, because it is in a way that it cannot do any harm. It cannot interfere with the appropriations or raising of revenue. It cannot affect the disbursements of state funds.

V. RIVERS: Could I ask this? You say it cannot do any harm. Is it good and is it actually needed in this particular approach?

TAYLOR: I might say, Mr. Rivers, I went into that quite carefully. I find out that all initiative and referendum bills, or states that adopted that method of direct legislation, there has been none since 1928. Some of those states have attempted to repeal that provision of their constitution, and others have used it little if any. Now there was quite a fine treatise on that subject by a professor of political science and he reviewed the history of the initiative and referendum in Oregon over a period of ten years, 1938-1948. He took the measures one by one which had been either initiated or which had been referred, and when he summed up his opinion after a very long study and a thorough study of the proposition, he said in all probability the legislature would have done the same things that the initiative and referendum accomplished. Of course, now we know in some states the exercise of the initiative and referendum was perhaps warranted by one act maybe that it put through. One of them was in California. The Civil Service Act for state employees was put through by means of the initiative measure. The legislature had been importuned for year after year for civil service status of the employees, and it was only in that way that they finally got it. Of course, if the proper safeguards are not put around the type of legislation that can be initiated by the people. As I said before, they can do a lot of harm. There was one in California that within a year they found out it was bankrupting the state, and they had to get out another initiative and do away with the first one. Colorado had the same experience, and the State of Washington, because they were levying taxes under those bills and directing where these taxes were going, and the State of Washington in a period of about eighteen months found themselves with not only losing a 60,000,000 dollar surplus that it had in the treasury but also 120,000,000 dollars in the hole. Colorado was about the same way.

V. RIVERS: With certain safeguards the Committee considers it useful and desirable. Now what about the workability? Do you figure it is workable in a territory like Alaska, of this size and widespread population? I would like some comments on that.

TAYLOR: We took that into consideration, Mr. Rivers, in drawing this up. I might say in our initiative we have left a small percentage of the voters who voted for the governor in the previous election for the amount necessary to initiate a petition. So then I might say in another way that we have tried to protect the

voters and state from pressure groups is the fact that before a petition can be circulated, ten sponsors of that petition must have it up and submit it to the attorney general not only as certifying as to whether the proposition is set out properly on the ballot but also as to its constitutionality, and if he does not give that certificate as to its constitutionality and the proper setting out of the ballot on that, they cannot circulate it and that will overcome the arguments against the initiative and referendum. In some states due to the fact that pressure groups could get the required signatures and they could file it with the secretary of state regardless of whether it had the proper designation of the matter that was to be acted on, regardless of the constitutionality of it, even if it did pass, the court could throw it out, so we have that for safeguards.

V. RIVERS: Your Committee, I assume, thinks it is workable for the Territory in its present form?

TAYLOR: I believe it would.

V. RIVERS: One other question, on the basis of the general application of this act, before we go into detail, do you think that in our Organic Act it says, "We shall have a republican form of government." Does this in any way circumscribe the idea the republican form of government which is legislation through the elected representative rather than direct from the people?

TAYLOR: I know that argument has been advanced. It might be the exception that if our republican form of government did perhaps fall down, that the general public will have a vast interest in it with their reserve powers, if the powers to exercise, if the right to exercise that power is restricted to certain things, I don't believe it is a departure from our republican form of government.

JOHNSON: Mr. Chairman, may I address a question to Mr. Taylor? In this connection, Mr. Taylor, it is my understanding from looking at Committee Proposal No. 5 that the Committee on Legislation recommended that we hold meetings of the legislature each year. Now with the legislature meeting that frequently, do you think it is still necessary to have some safeguards such as this as you propose, or would there be a sufficient check on the legislative procedure meeting once a year?

TAYLOR: I believe it would be, Mr. Johnson, in this way. It might be some very badly needed legislation but which the legislature would refuse to act upon. I could see a number of reasons which we don't have to elaborate on that but there might be some pressure groups. Well, if that was the case, and the people had the right to initiate this legislation they could possibly cure the ills that were existing by reason of the legislature not working.

JOHNSON: Don't you think these so-called pressure groups might exercise just as much influence on the legislature?

TAYLOR: Absolutely they might, but if the legislature did not act, after the legislature adjourned at any time in the future, then they could initiate the legislation which the legislature had refused maybe even if they had been petitioned, not initiative petition but other petitions.

EGAN: Mr. Chairman, may I address a question to Mr. Taylor?

CHAIRMAN R. RIVERS: You may, Mr. Egan.

EGAN: Mr. Taylor, in the article on Direct Legislation, Section 1, it says, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." Now the reading of that section would imply that the people through the power of the initiative would not have the right to reject any laws that they themselves had not already put on the books, in that order.

TAYLOR: That would come under Section 2, Mr. Egan. That is the referendum, after a law is passed, then they could by a petition have a vote upon that.

EGAN: My question was, Mr. Taylor, that under this particular provision of the initiative with relation to the initiative power of the people, they could not attempt to reject a law that was already on the books. They could only attempt to reject a law that had been passed by the initiative provision.

TAYLOR: That is right, that would be the only thing, now I think in that first section, Mr. Egan, is the fact that they can petition, they file this petition. It then is referred to the people, and the people can reject it or adopt it.

EGAN: Then, Mr. Taylor, if a law is passed by the people through the use of the proposed initiative when would the law become a law?

TAYLOR: In 120 days I believe we have in here no, 90 days, and any referendum petition would necessarily have to be filed with the secretary of state within the 90 days after the law is enacted.

EGAN: Where does it say that?

TAYLOR: Page 2, line 6. The first part of the word "referendum" starts at the end of that line. Referendum petitions shall be filed within 90 days after adjournment of the legislative session at which the measure was passed."

EGAN: That does not say that is when the law will become enacted through the initiative. It just says that is when they shall be filed.

TAYLOR: If that is filed, that suspends them, but it does not suspend an emergency act. If there is an emergency clause upon a bill, the referendum is not operable.

EGAN: In Section 5 it says, "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." But it says nothing in there denying the people the right to go to the polls and do away with a particular tax, say, that had been levied by the legislature. Did you mean that the people could, through the use of the initiative, go to the polls and nullify any act that they might so choose? I am thinking if that is true what might happen in some cases where a certain appropriation had been made but you would not be voting against the appropriation, but if the people went to the polls, if there was not some restriction there, and did away with the tax measure that the legislature had deemed absolutely necessary to provide the revenues, it could cause chaos until that situation was corrected.

TAYLOR: If the use of those moneys was so imperative, Mr. Egan, I think the legislature could very easily attach an emergency measure on that and take it out of the provisions of the referendum.

EGAN: Could the legislature do that or would it be necessary to add some wording in Section 5 in order to be certain that through the action of the general public at the polls that they might do away with enough revenue that would cripple some program that they had no intention of crippling?

TAYLOR: I don't believe they would have the right to take away revenue unless they could show some methods of raising the same amount of revenue from different matters. As your question states, it might be to clarify this matter that if we could amend this to show, to carry out the intent you ask, that it could not impair the revenue structure that had been passed by the legislature.

CHAIRMAN R. RIVERS: Mr. Doogan.

DOOGAN: I would like to ask Mr. Taylor a question. I would like to carry Mr. Egan's thought just a little bit further, Mr. Taylor, and I would like to carry it where one legislature has imposed, say the property tax and then another legislature comes along and abolishes that property tax. I notice according to your Section 1 and Section 5 that I don't consider that there is anything in there that would allow the people either, through the initiative, to oppose the abolishing of that property tax by the legislature.

TAYLOR: Not unless it indirectly affected the appropriations.

DAVIS: I would like to ask some questions of Mr. Taylor. Would you refer to the last sentence of Section 4 in line 19 of the proposal, "No law passed by the initiative may be vetoed by the Governor nor amended or repealed by the legislature for a period of three years." As I read that, it is possible to infer there that the governor might have a right to veto such a law after three years, and I wonder if that is what you intended or if you meant that the governor would have no right to veto it at all, but the legislature might have a right to amend or repeal after three years?

TAYLOR: I think Mr. Davis that all legislatures, the governor must veto a bill within a certain number of days, and he couldn't wait for another year and the legislature for a period of three years would not be able to repeal that law by an act of the legislature, but there would be nothing to prevent the people, if they felt that the act that they had initiated was wrong, why they can then by the appropriate petition can repeal it.

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DAVIS: It isn't your intention in any event, that the governor shall have any right to veto any matter that is initiative?

TAYLOR. No, sir. It is only the people that can do it and the legislature after three years.

DAVIS: Well, as long as I'm on my feet, then let me ask a question on a couple of other sections about the same place. Section 5, line 24. has to do with restrictions on the use of the initiative. It says that the initiative may not be used for various things including, "as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Now I take it that what you intended there was rather than defeating or earmarking of revenues, that the initiative may not earmark revenues?

TAYLOR: They cannot.

DAVIS: That was your intention?

TAYLOR: That is right.

DAVIS: It was suggested in conversations among some of us this morning that it might be possible since you have listed various things that cannot be initiated and have not included an amendment of the constitution, that it might be inferred that then one could amend the constitution by initiative. It was also argued along that line that since you have along with this put in a bill concerning amendments to the constitution, which does not include an initiative procedure, that the Committee did not intend that the constitution should be amended by initiative.

TAYLOR: We have specifically excluded that, Mr. Davis. We felt that the initiative was not the proper way to amend the constitution. We took a shorter and perhaps a less expensive way of amending the constitution.

DAVIS: The reason then that you have not included the amending of the constitution in this Section 5 among the things which the initiative may not do is the fact that you have covered that subject in the section on the amendment of the constitution?

TAYLOR: That is right.

MCLAUGHLIN: I have a question, Mr. Taylor. Regarding your attention to Section 4, the first two sentences: "Prior to general circulation, an initiative petition shall be signed by ten qualified electors as sponsors and have the constitutionality certified by the Attorney General. Certification shall be reviewable by the courts." First, sir, is that provision found in any one of the 19 states that have initiative and referendum?

TAYLOR: No, I think this is the first one I have run across. We felt that should be to prevent, you might say cyclorамic groups from, putting these petitions out, and we know it has been done in many states. We put that on there and the attorney general passed on it, but they have the right to go to the courts to test the validity of the petition that they are going to get out.

MCLAUGHLIN: May I ask another question? Mr. Taylor, assuming that ten electors get together and present this petition to the attorney general and the attorney general makes a ruling that the act sought to be certified is constitutional, does that preclude the courts thereafter from finding it unconstitutional?

TAYLOR: I think any interested taxpayer could have it reviewed, and I think whether the certification was unfavorable or favorable, I think that an interested taxpayer could review that.

MCLAUGHLIN: Mr. Taylor, would there be more of a saving to the government if it were required that the eight per cent sign the petition before they submit it to the attorney general rather than having any ten persons submit it to the attorney general for an opinion? Would the government suffer any loss if it required the eight per cent of the total voters to secure the petition before they present it to the attorney general?

TAYLOR: Mr. McLaughlin, in this particular instance we went over all the states that have the initiative and referendum and some of them require considerable percentage of the number of votes that were cast for the governor at the preceding election, and this eight per cent that we arbitrarily set was put at that figure. It is low, it is among the lowest. Because of the size of the Territory, the limited population in proportion of the size, we felt an eight per cent after it is certified as to its constitutionality is okay and also that the ballot is properly described.

MCLAUGHLIN: Had the Committee discussed how many states in the Union authorized their highest appellate courts to give advisory opinions on constitutionality where the question hasn't arisen?

TAYLOR: I don't know. Some of them were referred to the secretary of state who no doubt, we felt would certify the question to the attorney general for an opinion. Unless the secretary of state was an attorney he would be a little hard put to pass upon the constitutionality, but I suppose he would do that through the attorney general of the state.

CHAIRMAN R. RIVERS: Point of clarification. This says the attorney general shall pass upon that.

TAYLOR: That is right in here, but a lot of states have said just the secretary of state, so we put it the attorney general who is the law officer of the state and he passes on it without having to go to somebody else.

MCLAUGHLIN: Did the Committee consider how long normally, assuming that this process went into immediate operation, how long it would take for the supreme court of Alaska or the superior court, after an appeal from the superior court, to determine the constitutionality of an abstract question presented by ten citizens?

TAYLOR: Well, it might take some little time. It might be given a priority, like if it was something that affected the entire electorate of the state.

MCLAUGHLIN: Mr. Taylor, may I inquire of you personally if it's proper, in your experience in determination of constitutionality of questions presented and appealed to the highest courts of any states, what is the average time lapse from the time the question is first presented until the time it is determined?

TAYLOR: I would say if it went through the superior court, the supreme court would take at least six months.

MCLAUGHLIN: That would be under extremely ideal conditions.

TAYLOR: That would be without any particular brakes being put on it.

MCLAUGHLIN: What is the meaning in Section 5, last sentence, "Emergency acts are not subject to referendum." What are emergency acts?

TAYLOR: Well, if an act that has passed the legislature and is of such a nature that the legislature feels that it should be passed immediately, they can, by two-thirds majority, declare that an emergency exists and that law shall become effective immediately upon its passage and approval, which means that as soon as the governor signed it, that became a law of the state.

MCLAUGHLIN: Could you tell me offhand, Mr. Taylor, how many of the acts of the Territorial legislature normally are emergencies? What percentage?

TAYLOR: It would be a guess, but I would say half or more of them are declared emergency legislation.

MCLAUGHLIN: How many states in their initiative and referendum proposals provide that emergency acts are exempted?

TAYLOR: Most of them.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to answer one of the questions Mr. McLaughlin asked of Mr. Taylor which I think was answered incorrectly. He asked if there were any state that had such a provision as this small number of people asking for certification, sponsoring, and this will not be the first state to have it. The State of Massachusetts has it, and the object of it in the article that I read regarding that, aside from the fact I knew it to be a fact, was that it would prevent people, prevent one person from circulating a petition which would have no real value and possibly be unconstitutional at the same time, and bothering people with getting this thing circulated and signed and presented and causing nothing but trouble, and if it was done this way it would eliminate that and also it would prevent the circulation of petitions in a secret manner that as soon as the petition was submitted to the attorney general, why it would become a public matter and it has considerable advantage in my opinion. I was the person on the Committee that suggested it be included and our advisory group concurred. They thought it a very good idea. He asked another question that I wanted to answer too, but I can't think right now.

TAYLOR: Mr. Speaker, I am glad Mr. Hinckel brought that up. He might have misunderstood me. I said this was one of the lower. Some are ten, some are fifteen, some twenty per cent. I think the higher brackets make it impossible.

CHAIRMAN R. RIVERS: Mr. Hinckel was talking about the ten sponsors, Mr. Taylor, and pointing out that Massachusetts requires a certain number of sponsors before the petition is circulated.

TAYLOR: Oh yes, that is right. I did not mean to say none of them have it. None of them I knew of at the time. We were putting a safeguard around people being importuned by these groups who wanted signatures and they had to get quite a number of them, and if it was an unconstitutional proposition they were advancing or if they did not have the proposition properly set out on the ballot, they could not circulate it.

CHAIRMAN R. RIVERS: The point is clear now. Mr. White.

WHITE: I would like to direct a question to the Chairman of the Committee on Direct Legislation.

TAYLOR: I am not the Chairman, but Mr. Collins has asked me.

WHITE: In that case, Mr. Taylor, referring again to Section 5, it says that the referendum may not be used as a means of making appropriations of public funds. Could that be construed as saying that the legislature could not put to the people by a referendum, a bond issue proposition?

TAYLOR: No. They could approve the bond, but I think they could possibly require a bond but they could not direct where the money went to.

WHITE: In passing a bond issue it is inherent under the situation that appropriation of public funds must subsequently be made to retire the bonds. It would seem to me that in the sense of this section it would forbid the legislature from putting bond issues to the public referendum.

CHAIRMAN R. RIVERS: Bonding would be to borrow, Mr. White. Appropriating would be taking money presently available.

TAYLOR: It would be pledging the credit of the state. I doubt very much whether a bond issue could possibly be because the bond issue would necessarily have to be for a particular purpose. Now in many of the states the provisions in regard to initiative and referendum do not apply to any moneys of the state for the purpose of carrying on the function of government. The universities, school systems, orphan homes, penitentiaries, those are all exempt because those are functions of the government that have to be carried on, so they don't get, you might say, some chance of trying to nullify those institutions by cutting off appropriations for them, and that is the reason that the safeguard is put in here, the same as it is in practically all the states.

BUCKALEW: Mr. Taylor, is it not true that only 19 states have adopted this?

TAYLOR: I believe that is all there is at the present time.

BUCKALEW: Is it also not true that the last state to adopt such measures was some 30 years ago?

TAYLOR: 1928 I believe it was.

BUCKALEW: Do you know what state?

TAYLOR: No I don't. Practically all of the initiative referendum was adopted in a period around 20 years, between 1898 and 1918 was the time they were in popular favor of the states at that time.

DOOGAN: I would like to ask Mr. Taylor, you provided for the initiative and referendum, but don't you feel that the power that is left to the people as provided by this article is only in what you might call minor lawmaking?

TAYLOR: No, I would not think so.

DOOGAN: The reason I point that out is that you allow no initiative or referendum for raising money. You don't allow them to prevent the legislature at times, as they have done, to stop them from removing some of the taxes that they have already applied, when it might be felt by the people that the legislature was subject to a great deal of pressure to do so, and consequently my particular feeling is that what is left for the people to do is very minor legislation, and something that would hardly be worth their while to go into anyhow.

TAYLOR: What particular part of this proposal, Mr. Doogan, are you referring to?

DOOGAN: Section 1 and Section 5 which seem to me to be most of the meat of the proposal as it is.

TAYLOR: Well, there is a lot of local legislation, like if the legislature, or some people up here wanted to have money appropriated by the legislature to put another bridge across the Chena River, and they got an initiative addition out, that would not be acted upon because it is strictly expenditure of money for local

purposes. That would only apply to particular subjects or particular people or particular areas, so then they would not be allowed to circulate petitions.

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 a nother division, perhaps a third or even half from another section.

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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.

CHAIRMAN R. RIVERS: Mr. McNealy.

MCNEALY: I would like to ask Mr. Taylor a question. As I understand it, Mr. Taylor, there are two procedures to put into effect on the initiative. One is written in the bill here, and the other form is for the people to petition the legislature by initiative to enact certain laws. I was wondering if your Committee had considered the one I just mentioned by the people petitioning the legislature to enact laws rather than taking it direct as set out in the bill.

TAYLOR: I think the right of the people to petition the legislature is one of our rights as guaranteed us by the Constitution and requires no special law for that purpose. We can all petition the legislature.

CHAIRMAN R. RIVERS: Mr. Barr.

BARR: I would like to ask Mr. Taylor two or three questions on the initiative. I can see for the recall and referendum, but the initiative seems to me to be a very cumbersome and unnecessary procedure. Will you please convince me that it is necessary. And I would like to point out to you as a member of the legislature, over 200 bills were introduced, and many of them were introduced by request. It is a very easy matter to ask a member of the legislature to introduce a bill. Why is this cumbersome procedure necessary?

TAYLOR: Well, this is not for the legislature to do it. This is to have the questions submitted to the voters as to whether that becomes a law or not -- to vote on it.

BARR: Providing the legislature does not pass the act before that time?

TAYLOR: Yes.

BARR: In other words, if the legislature refuses to act, then it goes for a referendum. Well, in our present form of government the people elect the legislators to represent them, and I have never known a case where they did not do what they thought the people wanted. I don't think they ever would.

TAYLOR: Did you read the history of the State of California and the Southern Pacific Railroad, Mr. Barr?

BARR: You mean some special group wanted something done?

TAYLOR: And they got it.

BARR: Don't you believe that with all these restrictions even, that it is still easy to have a petition signed and that any special group could have a petition of this sort signed very easily and submitted?

TAYLOR: I think eight per cent of the voters would be quite a sizeable petition, especially if say 15,000 votes were cast for the governor in the governor's election, this last one we had 27,000 votes. It would take eight per cent of those 27,000 votes that were cast for a particular man. How many were cast for the candidates that were running for governor, the entire election for governor?

CHAIRMAN R. RIVERS: Did we have an election for governor?

TAYLOR: I mean if we did.

BARR: Mr. Taylor, eight per cent would take a large number of petitioners. If there was some little group in one town who wanted something on some question, something that was Territorial wide, such as fish traps, statehood or groups representing one type of school against another type of school, don't you think eight per cent would be a fairly small number of petitioners?

TAYLOR: I do not believe it would be a very small number, and then another thing, Mr. Barr, carrying your arguments further, you say a small group in a particular locality that wanted something, they are barred because that would be local legislation.

BARR: That is what I pointed out. But I am speaking of something now that is Territorial wide, some question, and there are a large group of people on both sides of the question, and eight per cent would not be many signatures.

TAYLOR: No, that is only to say whether an election is going to be held, Mr. Barr. I don't think we should put undue restrictions upon having an election because then the whole electorate has got to come out and say whether or not that proposition is going to prevail or whether it is to go down in defeat.

CHAIRMAN R. RIVERS: Mr. Smith.

SMITH: I would like to call attention to the fact that we have had a perfect illustration here of the fact that in considering any proposal, or section by section, we are apt to see only the section before us and not take into consideration that every preceding section may also affect those following. Now I refer specifically to the fact that Section 1 and Section 5 have been said to be the meat of this proposal. Actually Section 3 is fully as significant as any of the others. Section 3 says, "The legislature shall prescribe the procedures to be followed in the exercise of the powers of initiative and referendum, subject to the specific authority reserved herein." Now going back to the questions raised several times as to the percentage of the number of votes required to initiate a measure and the fact that they might all originate in one certain district, we

have left the power with the legislature to provide that those signatures may be required within the various districts, may require that they may be scattered throughout the various districts.

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SMITH: Mr. Chairman, there are a lot of questions that have been brought up, and I am just going to touch on some of them very briefly. Referring back to the survey of Oregon's experience, the report states that the measures initiated were on the whole not much better or worse than the products of the legislature. The people of Oregon had been considerably burdened with decisions on all manner of measures, some of them nuisance proposals that kept reappearing time after time. The people were not notably better educated politically than before. However, they had exercised their responsibility in a fairly conservative manner. They had been rather free to alter the structure of the government, had not been financially irresponsible and had been rather conservative on policies in the general field of public welfare. Now I think Mr. Victor Rivers brought up a question as to whether, if the initiative were included in the constitution we would then have a republican form of government. I think it would take a constitutional lawyer to answer that question, but I imagine that the people in the states who do have this provision feel they do have a republican form of government. We go back to the question as to the accomplishments of the initiative and referendum which have been covered to a certain extent. I go back, possibly because it is more realistic to me, to the fact that Washington and Oregon for many years tried to get their legislatures to eliminate fish traps with no success. Through the initiative measure they were both successful. Now Mr. Barr's suggestion that it would be easy to get the legislature to take action if they were asked goes back to the fact that California again tried for years to get their state legislature to set up a civil service system. They were unsuccessful. Through the initiative right the people of California instituted a civil service system. Now I believe Mr. Doogan asked a question. I am not sure. Someone brought up the point -- I believe it was Mr. Davis that the right of the initiative as outlined here might be construed as allowing the people to amend the constitution. I would call your attention to Section 1 which is preceded by the word "initiative" and following, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." And I don't think
that could be construed as amendments to the constitution.

V. RIVERS: Do you yield for a question, Mr. Smith? In your study of Oregon, did you find that by referendum the people of Oregon had defeated a statewide sales tax seven times?

SMITH: Yes, now that you call it to mind, I do very distinctly.

V. RIVERS: Do you also believe that if we had this clause in here which says, "emergency action not be subject to referendum", that we would eliminate practically nine-tenths of all the acts of the legislature including such as things as sales tax if it carried that clause?

SMITH: I have had considerable worry over that fact, Mr. Rivers, and I think it is a thing which is very open to question.

V. RIVERS: Do you believe that if we have the initiative and referendum in the constitution it will make it more palatable from the point of view of some of the legislators or senators in Congress for approving this act?

SMITH: That is one of the chief reasons why I support very strongly the inclusion of the initiative process in the constitution, even though it is not used, it is there. I think that the legislators, if they know it is there, they will be very careful in ignoring the will of the people.

V. RIVERS: Do you believe that approval of the act subject to referendum, any of those emergency acts shall not be subject to referendum, could be covered by a different clause such as the acts that are necessary for the immediate preservation of the public peace, health, safety, etc., would that be better than just saying those that carry an emergency clause?

SMITH: I feel it would, Mr. Rivers.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to speak on that subject. We had numerous drafts of this article and among them we had somewhere the wording I thought was better, and it is quite possible that in trying to condense it that we went a little too far, and some of the things we originally had written in the article and took out in condensing may have to be put back in. Mr. McNealy asked a question which has been incorrectly answered. He asked had we considered the indirect method of putting through a bill, and you will notice that on lines 13 and 14, page 2, that is says that these conditions shall exist, "unless the legislature enacts the measure initiated during the session." So we did include the indirect method of approach which we thought was the economical way to do it.

CHAIRMAN R. RIVERS: Mr. Hellenthal.

HELLENTHAL: A question of Mr. Taylor. Mr. Taylor, is it not possible that the California fiasco where the legislature was dominated by the railroad could have been due to the fact that the California Legislature as then constituted was not truly representative of the people?

TAYLOR: That is entirely possible, Mr. Hellenthal.

HELLENTHAL: Is it not possible that some of the domination of the Alaska Territorial Legislature in ancient times might have been due to the fact that it also was not representative of the people?

TAYLOR: That is true.

LONDBORG: Mr. Chairman, may I direct a question to Mr. Taylor? According to statistics I believe the other states require from eight to fifteen per cent of the qualified electorate to initiate. Is that not true?

TAYLOR: They have different ways. I think the majority of them that have it there is a percentage of the votes cast for the governorship at the previous election.

LONDBORG: The votes cast? I was referring to the report where it said that eight to fifteen per cent of the qualified electorate, and I wanted to have it clarified. Here we have eight per cent of the votes cast which would be a considerable lower percentage of the qualified electorate than eight per cent. I thought we might have that open for consideration.

TAYLOR: That would be the number of votes cast for the governorship, not the particular man who won the race.

LONDBORG: That would still be a considerable amount less than eight per cent of the qualified electorate, and I am wondering if other states do have it reading the governor.

TAYLOR: There is quite a few of them who have it. I might state why that is, because it's ordinary, there might be instances where three people would be running for the governorship, usually it is two. Most people who go to the polls would vote for one of those two candidates for governor so they take the combined vote for governor and then eight per cent if it is in the law or fifteen per cent if it is in the law. Now there is one state I think that has only five per cent.

LONDBORG: I see that. That is eight per cent of the total number of votes cast, but I was wondering about that if the states used that or if they used the percentage of qualified electors as was referred. Perhaps the PAS report was in error on that.

CHAIRMAN R. RIVERS: Mr. Fischer, could you throw some light on that?

V. FISCHER: I might read from the Hawaiian Manual. "Six states require a number of signatures to be based on previous vote for governor. Two states require number of signatures to be based on previous vote for supreme court justice. One state requires number of signatures to be based on previous vote for secretary of state, one state requires number of signatures to be based on state office which receives the highest vote at previous election, and then a few leave it up to the legislature to determine and two states specify in the constitution the exact number of signatures required."

LONDBORG: They did not give the percentages at all there, did they?

V. FISCHER: Yes, they do. Arizona ten per cent based on governor; Arkansas eight per cent on governor; California eight per cent on governor. Eight per cent is the most common.

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MARSTON: I am going to make a speech in favor of the initiative, referendum and recall which has not been made yet, and you have made up your minds practically here without the thing being properly presented, and don't let for one minute, gentlemen and ladies, this kind of talk you heard make up your minds on so vital a piece of legislation. Delegates who make a remark about "this foolish piece of work", I think it is unbecoming to this audience and this group of people to talk that way about a thing so fundamental as we have here. If you don't trust the people I don't know where you are going. That means if you vote down the initiative, referendum and recall you do not trust the people, and the people are the people, and that is the only reason we are here, and if you can't trust them I would hesitate to go back home before your committees and talk to them. I think the passage of the initiative, referendum and recall will sell a lot of these constitutions. When a man says "I don't like that", you can say "You have a right." The people themselves can go into the courts of the land to have your word made law by a certain procedure. I hope that we pass the initiative, referendum and recall, and I hope we never have the occasion to use it. I think it is a great thing to have it in the hands of the people, and you will notice that the Western states are the ones that passed and used the initiative, referendum and recall, and we are Western and Northern, the same kind of people. We are explosive people. We like to express ourselves, and I can see miners back in the camps thinking over things that have not been right, and fishermen in their little boats wondering why. Now they can say, "We can correct that thing", and though they never use it is a great healthy thing to have in the hands of the people. It has been used in some 15 states, and they have it in their constitutions. It is constitutional, fundamental law, and I hope that you people keep an open mind here and don't let this talking on here affect you because it is vital. You are sent here with a great duty to carry out the wishes of the people back home, and if you turn down this kind of legislation you are going to be in for a lot of embarrassment and a lot of criticism, and I don't like the way it has been carried on here. This Committee was not in agreement that made this document, and it was said so here, and I think all the members of the Committee should be heard on this before you make up your minds. I am for the initiative, referendum and recall, and I hope that you people open your minds again which you had it practically closed up here and were ready to close off by a certain group of people here, and think very seriously on this matter. It is fundamental law and I am going to ask the Chair right now to call on the rest of the Committee that worked on this direct legislation. That is all I have to say.

CHAIRMAN R. RIVERS: Committee members and others may be heard. Mr. Cross.

CROSS: I have been thinking quite seriously on this. I made up my mind that if you can't trust your legislature this cumbersome machinery is not going to help it very much, and I don't think we are going to help matters by taking a more cumbersome way of deciding things. We are here to set up machinery for legislation. And if we can't set up machinery that will work, I doubt very much if we can find any other way of doing it.

CHAIRMAN R. RIVERS: Mr. Taylor.

TAYLOR: Mr. Chairman, I agree with Colonel Marston. I believe he has stated it perhaps more eloquently than I can, about the desirability of having the initiative and referendum. I can not go along with Mr. Cross's statement that if the legislature.

doesn't do something there is no use trying to let anybody else do anything, but I believe if we do have this additional safeguard that worthwhile legislation will be enacted in case the legislature did not, that we are only saving to the people a power which they may never exercise, but the mere fact that the power is there and is available for the electorate to initiate some measure for the benefit of all the people, they should have the right to do it. Now perhaps Mr. Doogan says this is a silly piece of work. I wish Mr. Doogan would have been on the Committee because there were seven of us on there and we worked for three weeks and we met practically every day, and as I said before, we had studied and examined the initiative and referendum provisions of practically all the states that have the initiative and referendum, and to come into this Convention with a recommended article on those particular provisions, some of us sacrificed our convictions that all the details of the law should be spelled out in the Convention. Some of us sacrificed our convictions that just the framework should be drawn up by this Convention and the details filled in entirely by the legislature, and we finally met upon the common grounds which is here before us. And with the study that I have given to this and I think the other six members have given to it, that the cry of "silly" or "ill-advised legislation" or "ill-advised article" doesn't sound too good. If Mr. Doogan had been on that Committee perhaps we would have come up with a masterly article which we could pass without any amendments, without any discussion, but the men of limited mentality who composed this Committee were not able to do so. I feel that we should have as a curb, if nothing else, a power that might never be used but is still there. We should have that in the constitution. And a power that can be implemented by the legislature to whatever extent they wish, subject to the limitations that this Committee has put in the bill.

CHAIRMAN R. RIVERS: Mr. Coghill.

COGHILL: Mr. Chairman, I feel along the same lines that were just spoken. I think that probably the biggest majority of people here had to run to be elected for this Constitutional Convention, and probably if they were faced with the issue from the voters, and I believe a poll was taken, that a majority of the delegates was in favor of the initiative, referendum and recall. Was it a vote-getter? Were you fooling the people when you told them? Are you standing up to your convictions? I think that the people of the Territory need assurance that they are going to have individual rights restored to them. We under Territorial status have seen some awful reckless things happen during the realm of Secretary Ickes, Chapman, and now McKay. I think that you will find that under this form of government, a non-representative form of government, that the people are quite sensitive to their individual rights, their individual thoughts, as far as government is concerned. Woodrow Wilson put the phrase quite masterfully when he said that, "These three forms of controlling your government are the gun behind the door assuring direct legislation for the people." - think it is basic and I admire the work that was done on the Committee.

CHAIRMAN R. RIVERS: Mr. Knight.

KNIGHT: Mr. President, I agree with Mr. Marston and Mr. Taylor and also Mr. Coghill. Why should we take any power away from the people? The people put us here. However, Mr. Marston is wrong when he said there were 15 states that had this on their books now, there are 19. The last one was the State of Maine, January of this year, and I am going to favor this act.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to state that it is not a clumsy procedure, that it is a very simple procedure up to at least the point where the legislature may or may not act upon it, and they are in the end of it, they pass it and if it goes beyond that point why it may become a little bit complicated and expensive, but I don't think that very many times it will. I think that with the provisions as set up in this article that probably the legislature will handle the subject of the initiative due to the fact that they will be convinced that they are a large number of the people who desire that it be taken care of and probably that will be about as far as it will go in most cases.

MCNEALY: I had not intended to speak here, but there have been one or two things said that probably require a little clarification. I would like first to mention that there are 19 and only 19 states that have the initiative and out of the 19 there are only 11 of them with the direct initiative. The other eight have their initiative to the legislature. And as to what we promised the voters, one of my statements, that there were

not many things that were conflicted here among the candidates, but here in the Fourth Division in Fairbanks, maybe I should confine it out of respect to Delegate Coghill here, but that was one of the issues of initiative and referendum, and I came out strongly opposed to the initiative and at quite a large meeting held in the public high school here, every candidate who was running for this Convention, whether this means anything or not but all the candidates who stood up and said they were for the initiative are not present in this body today, whether that means anything or not. The point is I think it is a cumbersome system and outmoded system. It was popular 50 years ago, and I don't feel too strongly on it because in looking back, outside of the expense that it has cost the states in a lot of elections that came to naught, and far more of the propositions advanced on the initiative were defeated by the voters at great expense to the public than were ever passed, and that goes without contradiction. I feel that the proponents of this measure felt that in the early days it would cure everything, and those who were opposed to it thought it would be the end of government. Neither instance has happened. You might put it this way, it is not particularly good constitutional material and it is not particularly bad. For that reason, at least as to the initiative, I am opposed to it.

KILCHER: I have to disagree with Mr. McNealy on more than one point. For one thing, there are luckily quite a few of the candidates present here who in the campaign have advocated initiative and referendum. I might say in a lot of respects they have proven to be the more progressive ones. This referendum and initiative can only, with a stretch of the imagination, be called something outmoded, or you would have to call democracy itself outmoded. If we look at the history of the thing we can see that it coincides very closely with a whole series of progressive political movement of the late 19th century extending into the early part of the 20th century. If we look at the little map of the United States and see, here we can see which states they are. They are preferably the Northern and Western states and not the others. Some are known as the more progressive of our states, so consequently I think we have very good precedence, and we have nothing to worry about if we adopt initiative and referendum. Also the cost involved in an occasional election I think is cheap money for political education. It will in my opinion tend to decrease what Governor Gruening has called "the political illiteracy". It will greatly increase the interests of the people and the faith in themselves and their laws.

DOOGAN: Mr. Chairman, if I trod on the feelings of the integrity of any members of the Committee that drafted this thing individually, I am sorry. To say that the initiative and referendum is outmoded, I consider this impossible. As I read this, to be specific, a man brought up the suggestion of fish traps. If the legislature wanted to provide for the abolition of fish traps by referendum, it could not be done. You could not initiate for it either. I don't think it will work. I was one of the candidates that was asked whether I was for the initiative and referendum and I said "yes" and I am here. The thing is, the reason I changed my motion is just in general conversation I find that there is quite a difference of opinion, which I did not know before, and so as far as I am concerned the thing to settle first is, do we want the initiative and referendum, before we go on amending a bill we might later throw out, and I will abide by the decision.

CHAIRMAN R. RIVERS: Mr. Metcalf.

METCALF: Mr. Chairman, if I may make a few brief remarks on this matter, I was one of the Committee members that worked with Mr. Collins and Mr. Taylor, and we worked out this compromise on the initiative and referendum. It is far from perfect I know, but personally speaking I am in favor of the initiative and the referendum. Missouri saw fit in its revision in 1945 to spell it out pretty much. We copied or took some of our provisions from the Missouri article, and that was the 1945 revision. Another reason that makes me strongly in favor of the initiative and referendum is the fact, so I am told, that you are having a strongly centralized executive department. He is going to appoint administrative officers, much stronger than the average, and so in adjusting our system of checks and balances I feel the people should have an extra hold in this system of checks and balances. Speaking about the legislature, I believe Mr. Cross mentioned that why can't the legislature take care of everything. This talk about the legislature frankly has me confused here. Some people on one day say, "You can trust the legislature." The next day they say "You can't trust the legislature." Then there is the old man, Public Enemy No. 1, the lobbyist. So I am confused what to think about the legislature, and I think this system of the people having their hold on the checks and balances should be just as accurate and just as perfect as when you go to the bank to borrow some money on a homestead, you don't expect the banker to hand you out some money without you signing

up the mortgage, as a matter of banking routine. He gives you the money and you sign up, and it is just the same way with the initiative and referendum here. The people ought to have it in black and white, just what the rights are and not leave it to guesswork. I believe as Mr. Kilcher does, that if these matters, the initiative and referendum, are left to the people to study, it would reduce the political illiteracy that we now have, and I wish and urge everyone too vote to keep the initiative and referendum.

CHAIRMAN R. RIVERS: Mrs. Hermann.

HERMANN: I merely want to ask a question and that is, could any of the members of the Committee that formulated this committee proposal tell me how many of the 19 states that do have the initiative and referendum, have provided for such in the constitution, as opposed by the legislature?

CHAIRMAN R. RIVERS: Miss Awes.

AWES: I think perhaps I can answer Mrs. Hermann's question. I have before me the PAS pamphlet. It says that, altogether there are 19 state constitutions which provide for some form of statutory initiative." So evidently it is provided for by the constitution in all the 19 states.

BARR: Since Mr. Metcalf is a bit confused about the legislature, I might be able to clear up a few points for him. The legislature is elected by the people and the legislature is that the people make it. If you vote for the right people you have the right kind of a legislature. Therefore, it goes directly back to the people, and Mr. Marston says, "Can't we trust the people?" Well, certainly, but the question is, "Can the people trust the legislature? If they can, there is no need for any initiative, and they still have the referendum, and that is their check on the actions of the legislature. Now we do not have a democracy here. This is a republican form of government. If we had a democracy, of course the people would do everything directly. Since we have chosen the republican form of government, in which the legislation is taken care of by representatives chosen directly by the people, I think we should retain that form of government. It has worked out pretty well so far. Of course, I believe the referendum is necessary, but the initiative is not necessary. It is cumbersome, at least it is more so than our usual method of introducing bills in the legislature, and I know there are lots of them introduced by request. I have introduced some and have fought for them. Of course, if one is introduced by Sweeney and Sweeney does not fight for it that is a different proposition, but I think they should be fought for or not introduced in the first place. I am concerned about the initiative for several reasons. One, bringing up the old bugaboo of lobbyists again. There have been legislatures that have been dominated by lobbyists. I suppose in Alaska and other states also, but that is because perhaps the people did not vote for the right men. I do know for a fact, that a good many years ago the people of Alaska were more politically illiterate than they are today, and things are improving steadily, and as they improve, we will have better people in the legislature, And of course there will be an added cost if we have the initiative and have elections, and I am sure that we will have many elections because it is so easy to get a petition signed and it is not always a little group that wants to initiate some particular piece of legislation. It is usually eight or ten per cent of the people or more. And I believe that under our present system when the people elect certain representatives they try to pick out, I won't say a better man than they are, but one who is experienced and one who has good judgment, and when you group these people together in a legislature, if they approve of a certain bill, it is generally a pretty good one. I have seen some bum ones passed, but when you take in all the people of the Territory, counting the lobbyists, crackpots and individuals with special interests, etc., we can have any type of legislation we want. Of course, there are restrictions under this Committee report here which would tend to alleviate that condition somewhat, but I don't believe that it would correct the matter altogether. So I believe that under our present system we are getting along very well, and I was reading the model state constitution here, and I noticed on their commentary on it that was the sentiment there too, although there is a provision in the model constitution for both referendum and initiative, if I could find it I would like to read it.

METCALF: Page 29.

BARR: Page 29. In one paragraph in the right-hand side of page 30 it says, "Recent experiments in several states with the attempts of certain groups to employ these agencies to place in the constitution controversial matters". Now "controversial matters" of course does not necessarily mean that it might be promoted by a

certain industry. "Controversial matters of an economic nature have led to a wave of criticism of direct legislation and to numerous suggestions for restrictions on the use of the initiative and referendum." We have the restrictions in this report, but I don't think that restrictions cure it altogether. I just don't believe in the basic principles of the initiative, not under the republican form of government where everything is as streamlined and as efficient as we have it today to promote legislation.

CHAIRMAN R. RIVERS: Mr. Collins.

COLLINS: I would like to speak in behalf of the report of the Committee. This Committee was appointed, seven men from various sections of the Territory of Alaska. Two propositions covering the questions that were sent to our Committee was considered. We brought in for consultation the advisors that we brought here, Mr. Elliott and others. We went over this report of ours with them, trying to unify the different thoughts that the members had, and I want to say in behalf of that Committee that their work, their endeavor, a result of their study, was not "foolish legislation". I resent that statement. I am not going to get personal. Supposing I were taking the floor and had thrown that at the report of the Judiciary Committee - "foolish legislation". Any member of this Convention has the right to express his own individual opinion. He has the right to vote that opinion and I want to say in behalf of the members of this Committee that in submitting this report they have given the study, have gone over all questions you have heard here today, and we met on a common ground and we don't consider it "foolish legislation". We come back to you people to the Convention to see whether you are going to accept our report. You have the right to submit amendments, this is true. This is no gag rule nor is it no star chamber proceedings, and I think the quicker we get back into Convention and let the members express their individual views by appropriate amendments, and let this body pass on it, the quicker we will get the result of our endeavors

UNIDENTIFIED DELEGATE: question.

CHAIRMAN R. RIVERS: May I address a question to Mr. Egan? Must the question be put when called for? When somebody who wants to talk further, may he have the floor?

EGAN: He may have the floor.

CHAIRMAN R. RIVERS: Mr. Victor Rivers was trying here several times.

V. RIVERS: I merely wanted to say that I would like to be sure of the form in which the question is put because if we say, "Will the question of initiative be considered?" it means that it takes 28 votes to say it will be. Actually, we have it before us, so the question should be, "Will the consideration of the initiative be stricken?" and that is the way I want to be sure the motion is made. "Will we strike the consideration of the initiative?"

CHAIRMAN R. RIVERS: Well, I make a point of order that the motion before us is worded in the manner previously read and that the delegates may consider your interpretation of it. Mr. Londborg.

LONDBORG: I would just like to bring this up. I feel that after a committee has made a long study of it and come up with something there must be some merit in it. Now in about two hours we hear the whole story and have to be rushed to a decision on it. I will have to admit that on this particular item I would like to hear more or have a little time to think about it. I have been on both sides of the question myself, and I don't feel qualified to vote on it yet. I would rather abstain from voting myself right now.

CHAIRMAN R. RIVERS: Mr. McCutcheon.

MCCUTCHEON: Mr. Chairman, I would like to point out that insofar as I personally am concerned, the initiative was a device that was created some years back for specific situations. The outline of our new legislature makes that need much less imperative than it was 35 years ago. There are several devices in the legislative article here which I think would preclude the necessity of having an initiative. Bills can be introduced into the legislature by request, and even though they fail, assuming that this article is adopted substantially in its form as it is presented, even though those bills fail it may go out to referendum, so it

does not preclude the possibility of people initiating some type of legislation without going through the cumbersome form of an election.

BUCKALEW: I am just going to take a second. I want to tell Mr. Collins that I think he and his Committee did a good job of presenting their material. I am going to vote against it, not because I have any objections as to the way the work was done, but I don't think the initiative is necessary. I was interested in Colonel Marston's speech about the people. I remember in the Third Division there was not any issue at all that any of the candidates campaigned on. Most of the candidates came out that they were for a constitution and it should confine itself to fundamental law and that was the only comments that I recall any of the candidates making. I think I am the only candidate that came out for an 18-year-old franchise, and that was defeated, and for myself I got a lot of criticism in the Third Division because I said that the constitution should be in the English language and in readable form. There were no issues before the people in the Third Division. Forty or fifty years ago this type of legislation was considered progressive. I don't think it is considered progressive legislation any more. I think it is costly. I don't think we need it, and that is the reason I am going to vote against it. Now as far as the referendum, I am in favor of an optional referendum as drawn in the legislative article which provides if the legislature wants to they can refer a vote to the people. I am going to vote against it.

HURLEY: Mr. Chairman, I did not realize that people would be against this. so I am forced to speak by saying in very simple language I am in favor of the initiative, referendum and recall. I have always been in favor of it, I could stay here for 24 hours and I'd still be in favor of it. I think it is a basis of democracy, even if we have a republican form of government. My thinking is summed up completely in section 1, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." I do think that some of the items in here need amending to meet my full approval, but I am in favor of the initiative.

CHAIRMAN R. RIVERS: Mr. Gray.

GRAY: I feel much like Mr. Londborg. I agree with everybody. I say that from the point that I am agreeing in principle with one faction and I am agreeing in practice with the other faction. I believe that the real value of the initiative is not in its use. It is in the fact it is there. It is a threat. That is the real value of the initiative. I will say that I believe that the initiative is expensive and it probably will not have the due consideration that the same bill will be put through legislature. I will say that an initiative that is precipitated by one per cent of the voters would be a great nuisance. On the other hand, I will say that the initiative that had 50 per cent of your electoral voters, these are maximum, there is no question about it -- the legislature would have to do it. It seems to me that if we can find limitations that preclude uselessness and cumbersome of minor matters and make your requirements such that we will say that if 25 per cent of the electors desired a particular measure, I doubt very, very much whether any legislature would hesitate about passing it. I believe that in the articles of the constitution that the initiative is a positive part of our government, but it is not a desirable part of legislation, and I would like to see the qualifications of numbers. I don't know why we have eight or ten per cent. Maybe some person on the Committee could explain why the particular ten per cent. But before it was thrown out I would like to see the percentage raised and keep the initiative.

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PRESIDENT EGAN: Mr. Johnson, did you have an amendment?

JOHNSON: Yes, I do.

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 percent 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 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?

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, Awes, 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, Peratrovich, 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.

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ALASKA CONSTITUTIONAL CONVENTION
December 17, 1955
FORTIETH DAY
....

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 tochase 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.

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: 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 advocation 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 cumbersomely 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 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 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, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

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

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

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

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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 percent. 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:

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.)

MCNEALY: I would like to change my vote to "yes".

AWES: I just wanted to inquire as to if my vote was listed as "no". I said both.

CHIEF CLERK: Yes, it was.

PRESIDENT EGAN: Did Mr. Barr want to change his vote? BARR: No, I wanted to inquire about Miss Awes.

CHIEF CLERK: 29 yeas, 21 nays and 5 absent.

PRESIDENT EGAN: And so the "ayes" have it and the proposed amendment to the amendment has been adopted by the Convention.

.....

V. RIVERS: I have an amendment on the Secretary's desk on Section 4.

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

CHIEF CLERK: "Section 4, amendment to R. Rivers amendment. change 'two-thirds of the election districts of the State' to 'one-half of the election districts of the State'."

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

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 onehalf" 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 - Awes, 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.

BUCKALEW: Mr. President, I have an amendment to offer to Mr. Rivers' amendment.

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

CHIEF CLERK: "Strike the entire sentence of R. Rivers' amendment beginning with 'The petition shall, etc.,' and substitute, 'The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the State.'"

BUCKALEW: I move its adoption.

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

AWES: I second it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" Will the Chief Clerk please read the amendment once more.

CHIEF CLERK: This is an amendment to Mr. Rivers' amendment on Section 4. "Strike the entire sentence beginning with 'The petition shall, etc.,' and substitute 'The petition shall contain signatures of qualified electors resident in at least two thirds of the election districts of the State.'"

BUCKALEW: I will ask unanimous consent. The only reason I offered this amendment is the way it is drawn, it is ambiguous. What they meant, in the preceding sentence they refer to qualified electors and then they get down and refer to only signatures and what they mean is qualified electors resident in the districts, and I think it clears the ambiguity.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. That affects just the one sentence? I think it is a good improvement.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection? Hearing no objection it is ordered adopted.

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ALASKA CONSTITUTIONAL CONVENTION
December 18, 1955
FORTY-FIRST DAY

.....

DAVIS: Mr. President, there is one thing hanging fire that will prevent any final work in connection with this and that is Mr. McNealy's motion for reconsideration. I think we ought to take that up before noon recess. It won't affect what the Committee is going to try to do.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I move and ask unanimous consent that my reconsideration of last Saturday be voted upon at this time.

PRESIDENT EGAN: Mr. McNealy moves that his reconsideration be acted upon at this time. The motion in itself opens the proposed amendment to debate. Mr. Riley.

RILEY: Just to be consistent with the rule. I would ask unanimous consent that it may be allowed. It has been encountered before, as you recall.

MCLAUGHLIN: Could the question be fully stated prior to debate so we will know?

PRESIDENT EGAN: Do our rules say it is not debatable, Mr. Riley?

RILEY: It has to be under the suspension of the rules.

PRESIDENT EGAN: Then if there is no objection, it may be open to debate. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, may the full question be stated so the delegates will know what it is about?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: I didn't bring it down but I think it was the one changing fifteen per cent to ten.

PRESIDENT EGAN: The proposed amendment that changed fifteen per cent of the voters to read "ten per cent of the number of votes."

CHIEF CLERK: No, it was to change "eight" to "fifteen".

PRESIDENT EGAN: No, it was changing "fifteen" to "ten".

TAYLOR: It was changed to "fifteen" and upon my amendment which carried it was reduced to "ten per cent". The question now is whether the ten per cent is going to remain or whether it goes back up to fifteen per cent. I think we have had sufficient argument on this. I think I have pointed out several times, and others too, that due to our geographical circumstances that fifteen per cent would possibly be an undue burden upon the people who wanted to launch an initiative proposition and that ten per cent would be more in line with the proportion of the voters in the other states, some of them as low as five per cent and a great many eight per cent, and the fact that eight per cent seems to be the prevailing percentage in a great many of the states, that to practically double that would place, as I say, an undue burden upon the voters, and I feel that since the majority of the Convention yesterday felt that ten per cent was the proper amount, I

believe that we should retain that figure.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I won't take up time in debate on this. When we had it at fifteen per cent it removed largely any objections that I had, and several others that I talked to, it removed our objection to the initiative system because we felt it would not be misused. I think possibly I am going to vote to retain the fifteen per cent but possibly somewhere between ten and fifteen per cent would be common ground. I feel that ten per cent, however, is too low, and that the bill then, and with one or two other proposed amendments as to the dates of holding election, would make this one of the finest bills in the Convention. If we cut the requirement down too low it will not do us any particular good.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think if you hold that to where Mr. McNealy moves it, it removes the possibility of the law ever functioning. It is too high. Nineteen states have it averaged under eight per cent. We had one of our main parts taken out by the delegate on my left here and it threw it back to protect the legislature. The lady will have to stand responsible to the people for that and answer that question, why they took it away from the people. Now when you go into a bill before the legislature, and its vital corporations have a lobby which goes in and protects those corporations, the people do not have a lobby and cannot go down and work and defend their bills. I am for holding that at not one point above ten per cent. If you do, the law is practically unworkable, and I am on the side of the people and I am going to stay on the side of the people, and they are not going to take the laws away from the people too far. This initiative and referendum is important. It is a wholesome law, and the people should have it. And the amendments shoved in here have surprised me, and I am surprised at the people that would do that, attack a law of the people as viciously as they have and made it so difficult to work. I think the law should be workable. We should take up the pattern after the nineteen states who have adopted them. I believe that men of good will toward the initiative and referendum by the people will keep that at ten per cent because they have no chance, the people have no chance to go down and lobby. They have not the money or the ability to do it; while big corporations can and others can go down and lobby and take care of themselves. I hope I never have to talk on this again.

BUACKALEW: I was going to suggest (this is no reflection on Colonel Marston) I was going to suggest that we get a record, "Battle Hymn of the Republic and we'll play it at this time. According to Delegate Marston anybody who votes for fifteen per cent are against the people. I am going to vote for fifteen per cent and I think I am protecting the people. I think I am protecting the people from a costly machine that is going to bog down and perhaps might even destroy the State of Alaska. Sometimes I think some of the delegates think maybe we ought to abolish the legislature and do everything by initiative. That would be one way to do it, and it might work. I am going to vote for fifteen per cent.

PRESIDENT EGAN: Mr. White.

WHITE: I was going to talk on much the same vein, so I'll be brief. I wish to point out that the delegates who supported most of these motions, amendments to the proposed article, do so because they think they are protecting the interests of the people, and I would like further to say that the motion made by the lady at Delegate Marston's left was concurred in by the majority of the Convention. I am one of the majority and I'll support it along with her.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: It seems to me one feature we have not considered in this percentage deal is the number that it is the percentage of. We are comparing a number of states that perhaps have several million voters. One per cent of that vote would be equivalent to fifteen per cent of our Alaskan vote. It does not seem to me that the argument holds just because nineteen other states' average is eight per cent that that is a valid reason for setting our figure at that percentage, because we are dealing with an entirely different figure. Fifteen per

cent when Alaska gets several million people would certainly not be a good figure, but until we reach that time and I would think we should hold it at fifteen per cent, and when we have another Constitutional Convention if Alaska has three or four million people, then we would naturally lower it, but until that time I think it should remain somewhere between ten and fifteen per cent.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, along that line I might point out that the states when they adopted their initiative and referendum in their constitutions many of them, seventeen states had less population than Alaska has at this time. We have seen no drastic abuse with the safeguards we have in this act. I also want to point out that regardless of the thinness of our population, now requiring signatures from two-thirds of the districts would require that our people at a minimum cover an area of approximately 300,000 square miles, which is somewhat about three times of the area of the average state, which is in the neighborhood of 80,000 square miles. We have placed handicaps here in the matter of getting signatures so great that when the fifteen or even a lesser figure, I feel we have robbed the initiative and referendum of a good deal of its usefulness. I think ten should be an absolute maximum, and I feel also that it could well go below that and not be abused but a useful instrument in the hands of the voting populace.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I do not concur that ten per cent is an absolute maximum. The percentage of people initiating an initiative or referendum on the fifteen per cent basis, based on the last general election, would be 2.12 per cent of the total population in Alaska. That is based on a figure of estimated population of 180,000. I have those figures from Mr. George Rogers who has served here as a consultant. The ten per cent would mean that seven-tenths of one per cent of the people, the total population of Alaska, could bring about legislation through an initiative or referendum, and I believe that the small percentage of people that could affect the over-all population should be at least 2.12 per cent, the fifteen per cent required.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall fifteen per cent be changed to read ten per cent?"

TAYLOR: I think you put that wrong. The vote passed and put it to ten per cent. Now Mr. McNealy is trying to get it changed.

PRESIDENT EGAN: That brings us back to the original question, Mr. Taylor. The question is to the delegates, Shall we change 'fifteen per cent' to read 'ten per cent'?" Mr. Harris.

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

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 27 - Coghill, Collins, Davis, Doogan, Emberg, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 23 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, V. Fischer, Gray, Johnson, Laws, Londborg, McNealy, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - H. Fischer, Hellenthal, McCutcheon, Nerland, Sundborg.)

CHIEF CLERK: 27 yeas, 23 nays and 5 absent.

PRESIDENT EGAN: So the motion has carried and the amendment is ordered adopted. Are there other amendments?

.....

ALASKA CONSTITUTIONAL CONVENTION
January 2, 1956
FORTY-THIRD DAY

.....

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.

Constitutional Convention
Committee Proposal/3
December 9, 1955

REPORT OF THE COMMITTEE ON DIRECT LEGISLATION, AMENDMENT AND REVISION

Hon. William A. Egan, President, Alaska Constitutional Convention

Dear Mr. President:

Your Committee on Direct Legislation, Amendment and Revision presents for your consideration and adoption its proposed Articles on Initiative, Referendum and Recall; and Amendment and Revision. The Committee proposal, while incorporating many of the ideas contained in Convention Proposals No. 29 and 34, and in other drafts submitted to the Committee, is a Committee substitute. A section by section commentary of the subject matter has been prepared by your Committee for the use of the Delegates to the Convention.

Respectfully submitted,

E. B. Collins, Chairman

Jack Hinckel, M. R. Marston, Irwin L. Metcalf, Warren A. Taylor, W. O. Smith, Leonard King,

COMMITTEE PROPOSAL NO. 3
Introduced by Committee on Direct Legislation

INITIATIVE, REFERENDUM AND RECALL
AMENDMENT AND REVISION

RESOLVED, that the following be agreed upon as part of the Alaska State Constitution:

ARTICLE ON DIRECT LEGISLATION
Initiative
Section 1. The people reserve the power by petition to propose laws and to enact or reject such laws at the polls.

Referendum
Section 2. The people reserve the power to require, by petition, that laws enacted by the legislature be submitted to the voters for approval or rejection.

Procedure
Section 3. The legislature shall prescribe the procedures to be followed in the exercise of the powers of initiative and referendum, subject to the specific authority reserved herein. No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.

Petitions, ballot title, election, vote required
Section 4. Prior to general circulation, an initiative petition shall be signed by ten qualified vote electors as sponsors and have the constitutionality certified by the attorney general. Certification shall be reviewable by the courts. A valid initiative or referendum petition shall be signed by qualified electors equal to eight percent of the number of votes cast for Governor in the preceding general election at which the Governor was chosen. Petitions shall be filed with the Attorney General, who shall prepare a ballot title, and the adequacy of the ballot title shall be reviewable by the courts. Initiative petitions may be filed at any time. Referendum petitions shall be filed within 90 days after adjournment of the Legislative session at which the measure was passed. Laws proposed by the initiative shall be submitted to the voters by ballot title at an election not later than 180 days after the adjournment of the legislative session following the filing of the petition, unless the legislature enacts the measure initiated during the session. The question on referendum

shall be submitted to the voters by ballot title not later than 120 days after the filing of a petition against the measure. A majority of the votes cast is necessary for the adoption of an initiated law, or the defeat of a measure referred. No law passed by the initiative may be vetoed by the Governor nor amended or repealed by the legislature for a period of three years.

Restrictions
Section 5. 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. Emergency acts are not subject to referendum.

Recall
Section 6. Every elected public official in the State, except judicial officers, is subject to recall by the voters of the State or subdivision from which elected. Grounds for recall are malfeasance, misfeasance, nonfeasance, or conviction of a crime involving moral turpitude. The legislature shall prescribe the recall procedures.

Methods
Section 1. Revisions of or amendments to this constitution may be adopted by two succeeding legislatures, or be proposed by constitutional convention or by the legislature.

Proposals by Legislature
Section 2. Any legislature may by a two-thirds vote of each house propose amendments to the Constitution. Proposed amendments may be submitted by ballot title prepared by the Attorney General to the voters at the next general election. If a majority of the votes tallied on the question favor the adoption of the amendment, the amendment is adopted. Proposed amendments may be submitted to the next legislature not less than two years after being proposed. If the second legislature by a two-thirds vote of each house favors the adoption of the amendment, the amendment is adopted.

Constitutional Convention
Section 3. The legislature may provide for Constitutional Conventions. If any ten-year period elapses during which the legislature has not called a convention, the Governor shall certify the question, "Shall there be a Constitutional Convention?" The question shall be submitted at the first general election following the expiration of such period. If a majority of the ballots cast upon the question are in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature provides for the election of delegates at a special election. Unless the legislature provides otherwise, the law providing for the Alaska Constitutional Convention of 1955 shall be followed insofar as possible relating to number of members, districts, convention powers, election and certification of delegates, submission and ratification of revisions and ordinances, and other applicable provisions. The appropriation provisions of the law shall be self-executing and shall constitute a first claim on the general fund of the State Treasury. The legislature may provide additional appropriations.

Commentary on the Article of Initiative, Referendum and Recall

(Sec. 1 Initiative)
The initiative is the power of the people to initiate laws themselves and provide for a referendum on such laws without action by the legislature. This section reserves the authority of the people to initiate laws by petition and vote of the people directly.

(Sec. 2 Referendum)
This section permits the people to require that laws by the legislature be referred to a vote of the people before taking effect. This power is known as the Referendum.

(Sec. 3 Procedure)
Many constitutions, in the states which make provision for the use of the initiative and referendum, contain a great degree of detail relating to the exercise of the initiative and referendum. This section permits the legislature to provide by law for some details, but provides that the legislature may not restrict the

substantive rights guaranteed in Section 4, nor to require procedures more difficult than provided in Section 4.

(Sec. 4 Petition. Ballot title; election; vote required)
This section sets forth certain substantive provisions and minimum procedures affecting the exercise of the initiative and referendum. To prevent waste of money on elections for laws that are unconstitutional, sponsors are required to submit a proposed law to the attorney general for certification of its constitutionality, subject to court review, prior to the circulation of petitions. The provision is intended to stop, at the initial stage, the circulation of petitions for laws that would, even if approved by the voters, result in expensive court action. If the legislature adopts a measure that is the subject of the initiative, the measure does not have to be submitted to the people. Additional details of procedure may be provided by the legislature subject to the limits imposed by this section. The procedure outlined has the advantage of brevity while ensuring the substantive rights to the people.

(Sec. 5 Restrictions)
The exercise of the initiative is a fundamental right of the people, but special interest groups should not be permitted to unduly hamper the operation of government. The
restrictions in Section 5 will prevent the abuses and problems that have sometimes arisen in the states permitting initiative and referendum. Neither the initiative nor referendum can be used with regard to emergency legislation, appropriations, or measures earmarking taxes and other revenues, or for special or local laws that are of interest to only one group of people or people in only one portion of the state.

(Sec. 6 Recall)
The right of the people to remove elected officials is preserved. The legislature is directed to provide the methods to be used.

Commentary on the Article on Amendment and Revision
(Sec. 1 Methods)
This section outlines three methods by which the constitution may be amended or revised. (1) By action of two separate legislatures directly; by action of one legislature and referral to the people; and (3) by constitutional convention.

(Sec. 2 Proposals by Legislature)
The legislature, by a two-thirds vote, may submit a proposed amendment to a vote at a general election. Use of general election is intended to insure a substantial vote on the question. An alternate method is provided which permits the legislature, by a two-thirds vote, to submit a proposed amendment to the next legislature, but not to a succeeding session of the same legislature. If the second legislature adopts the amendment by a
two-thirds vote it becomes part of the constitution without referring it to a vote of the people.

(Sec. 3 Constitutional Convention)
The legislature is empowered to call a convention, but if the legislature does not provide for a convention each ten years, the question is submitted to the people at the following general election. The legislature is authorized to prescribe the procedures and powers of a convention; but if it does not make such provisions, the law calling this convention will be followed insofar as practicable.

MEMORANDUM

TO: Representative Bruce Weyhrauch
FROM: Tim Barry, Aide to Representative Bill Williams
RE: HB31/HJR5 Constitutional Convention Minutes
DATE: 03/10/03

I pulled the attached minutes from the Alaska Constitutional Convention from the Department of Law's website. Delegates spent the better part of two and a half days at the Convention discussing the issue of Initiative and Referendum. I have read through all of this discussion, and have pulled out what I consider to be the most relevant parts of it. It is long, but helpful in understanding the thinking of the delegates on the issue.

"The exercise of the initiative is a fundamental right of the people, but special interest groups should not be permitted to unduly hamper the operation of the government. The restrictions in Section 5 will prevent the abuses and problems that have sometimes arisen in the states permitting initiative and referendum. Neither the initiative nor referendum can be used with regard to emergency legislation, appropriations, or measures earmarking taxes and other revenues, or for special or local laws that are of interest to only one group of people or people in only one portion of the state." (Collins, reading from Commentary, Page 2)

Comments of interest:

Taylor, p.4: Talks about the fact that they designed the Article to try to protect the state from pressure groups.

Taylor, p.10: Talks about local legislation and the concept of limiting the number of signatures from one area.

Taylor, p.26: Talks about the discussion the committee had regarding geographical signature requirements, decided against them.

Pages 24 to 29: Discussion among delegates regarding geographical signature requirements, and the vote in favor of 2/3rds.

Page-by-Page synopsis:

Pages 1,2: Collins reads across proposed Initiative language (Note the top of Page 2, where it says the initiative can not be used "for special or local laws that are of interest to only one group of people or people in only one portion of the state.")

Pages 2,3: Taylor – history in other states, how Committee came up with plan, why Initiative is good

Page 4: Taylor – influence of pressure groups, need for Initiative system

Page 5: Taylor, Egan - Referendums

Page 6: Taylor, Egan – Appropriations not allowed

Page 7: Taylor, Davis - Governor can't veto Initiative; Can't amend Constitution

Page 8: Taylor, McLaughlin - Need ten sponsors, 8% of voters to get

on ballot; A.G. approves language; Emergency acts
Pages 8,9: Hinckel - Why 10 petition sponsors are needed; Taylor – that's a safeguard
Page 9: Taylor, Buckalew - Bonding; what other states do
Page 10: Taylor – Signatures from various parts of state
Page 11: Barr – do we need an Initiative process?; Why 8% statewide? Taylor – It's a good number
Page 12: Smith – Problems California had, benefits of Initiative; V. Rivers, Hinckel – Referendum to reverse Legislative act; Emergency Acts
Page 13: Taylor - Percent of voters' signatures needed, other states
Page 14: Marston - speech urging Initiative process
Page 15: Taylor, Coghill - speeches supporting Initiative
Page 16: McNealy - opposes Initiative process; Kilcher – history; Metcalf – support Initiative
Page 17: Barr – we need initiative, can't trust legislators. Lobbyists, crackpots. Opposes initiative
Page 18: McCutcheon – supports;
Page 19: Buckalew – opposes; Hurley – supports; Gray – suggest increasing from 8 to 10%; Johnson – move increase from 8 to 15%;
Page 20: Sundborg – that's high; Marston – average elsewhere is 8%
Page 21: V. Rivers, Taylor – 15% too high; Marston, Hurley – 8% good; Boswell – 15% good
Page 22: Londborg – 15% good
Page 23: Hilscher – 85 good; Hinckel, McNealy – 15% good; Vote – 15% wins, 25 to 23.
Page 24: Johnson – motion requiring 2/3rds of precincts; Marston – it's needed
Page 25: Londborg – 2/3rds is good
Page 26: Johnson – amend to "2/3rds of election districts"; Smith – opposed; Taylor, Hinckel – opposed, should leave it to legislature; Cooper – support; Londborg – Missouri, with 5% of 2/3rds of districts, is harder;
Page 27: Hermann – oppose, leave it to legislature; Sundborg – good idea to require statewide signatures, support 2/3rds; Buckalew – Oppose, leave it to legislature; Smith – support
Page 28: Johnson - 2/3rds is a good safeguard
Page 29: Kilcher – Could legislature require more signatures? Johnson – No; Kilcher – I think legislature can make changes, so I support; Vote – 2/3rds passes (38 to 13)
Pages 30-32: Taylor moves to change 15% statewide requirement to 10%; discussion of this idea, comparisons to other states, Vote, 10% passes (29 to 21)
Pages 33-34: V. Rivers moves to change from 2/3rds of districts to ½ of districts. Discussion, Kilcher says the legislature can change it later to increase signature requirements. Vote, motion fails (26 to 26)
Page 35: McNealy moves Reconsideration of vote to drop 15% statewide to 10%
Page 36: Marston – 15% is too high; Buckalew, Boswell – support 15%
Page 37: V. Rivers, Cooper – what the numbers mean; Vote – 10% passes (27 to 23)
Page 38: Londborg moves to require 3% of voters in each of 2/3rds of districts, talks about need to get enough statewide support

Page 39: Hurley, V. Rivers – opposed, there are enough safeguards
Page 40: Vote – 3% fails (17 to 31)

97BILL: Billboards (Passed 11/3/98, 160,922 to 61,401)

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	31	0.5	
2	103	1.4	
3	**631**	**7.9**	
4	409	5.4	122
5	163	2.7	261
6	101	1.9	
7	**1095**	**14.9**	
8	**540**	**8.4**	
9	346	5.9	60
10	**1162**	**15.8**	
11	**1030**	**17.3**	
12	**1017**	**16.4**	
13	**1570**	**21.9**	
14	**553**	**10.8**	
15	**1043**	**20.2**	
16	**587**	**15.9**	
17	**1011**	**16.7**	
18	**1640**	**19.9**	
19	**1069**	**17.4**	
20	**1032**	**17**	
21	**1002**	**17.5**	
22	**1143**	**15.5**	
23	**454**	**12.2**	
24	**1072**	**16.7**	
25	**995**	**14.9**	
26	**940**	**14.2**	
27	**1181**	**15.1**	
28	**851**	**11.1**	
29	419	5.5	113
30	147	2.7	242
31	150	2.7	246
32	58	1.9	
33	148	2.1	
34	98	1.6	
35	297	5.2	106
36	124	2.4	
37	113	2.4	
38	126	2.6	
39	112	2.2	
40	182	5.9	33

Minimum additional Signatures needed
to reach 7% in 3/4s of Districts (as required by HB31): **1183 in 8 districts**

Total signatures required statewide (10%):	24,521
Total qualified:	24,746
Total unqualified:	7,233
Total potential signatures:	38,934

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

97ENGL: English as Official Language (Passed 11/3/98, 153,107 to 70,085)

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	24	0.4	
2	27	0.4	
3	36	0.5	
4	36	0.5	
5	25	0.4	
6	115	2.2	
7	504	6.9	9
8	855	13.2	
9	588	10.1	
10	1090	14.9	
11	1003	16.9	
12	980	15.8	
13	1013	14.2	
14	645	12.6	
15	1077	20.9	
16	1099	29.7	
17	1228	20.3	
18	1096	13.3	
19	1163	18.9	
20	1142	18.8	
21	1027	17.9	
22	995	13.5	
23	614	16.5	
24	871	13.6	
25	1006	15	
26	1033	15.6	
27	1053	13.5	
28	998	12.9	
29	407	5.4	
30	393	7.1	
31	425	7.5	
32	284	5.8	57
33	465	6.5	38
34	312	5.1	114
35	271	4.7	132
36	136	2.6	
37	124	2.6	206
38	87	1.8	
39	152	3	
40	125	4.1	90

Minimum additional Signatures needed
to reach 7% in 3/4s of Districts (as required by HB31): **646 in 7 districts**

Total signatures required statewide (10%):	24,521
Total qualified:	24,525
Total unqualified:	7,517
Total potential signatures:	36,450

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

97PSDM: Medical Marijuana (Passed 11/3/98, 131,586 to 92,701)

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	34	0.5	
2	50	0.7	
3	798	10.1	
4	823	10.9	
5	100	1.7	
6	520	9.97	
7	314	4.3	199
8	385	5.9	67
9	254	4.4	152
10	957	13.1	
11	1070	17.8	
12	1046	16.8	
13	1136	15.9	
14	685	13.3	
15	1147	22.3	
16	1369	37	
17	1327	21.9	
18	1132	13.8	
19	1238	20.2	
20	1068	17.6	
21	1130	19.7	
22	972	13.2	
23	608	16.3	
24	932	14.5	
25	974	14.6	
26	895	13.5	
27	940	12	
28	1070	13.9	
29	280	3.7	252
30	174	2.1	
31	180	3.2	
32	73	1.5	
33	166	2.3	
34	108	1.8	
35	236	4.1	167
36	214	4.1	150
37	186	3.9	144
38	162	3.3	
39	161	3.2	
40	173	5.6	42

Minimum additional Signatures needed
to reach 7% in 3/4s of Districts (as required by HB31): **1173 in 8 districts**

Total signatures required statewide (10%):	24,521
Total qualified:	25,090
Total unqualified:	7,285
Total potential signatures:	35,190

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

97TERM: Term Limits Pledge (Passed 11/3/98, 109,613 to 108,731)

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	28	0.4	
2	52	0.7	
3	678	8.6	
4	746	9.8	
5	91	1.5	
6	540	10.4	
7	421	5.7	92
8	508	7.9	
9	808	13.9	
10	958	13.1	
11	979	16.5	
12	935	15	
13	966	13.5	
14	745	14.5	
15	934	18.1	
16	1154	31.2	
17	1193	19.7	
18	972	11.8	
19	1105	17.9	
20	954	15.7	
21	1098	19.2	
22	985	13.4	
23	677	18.2	
24	1053	16.4	
25	1059	15.8	
26	870	13.2	
27	963	12.3	
28	1006	13.1	
29	302	3.9	230
30	193	3.5	
31	205	3.6	
32	151	3.1	
33	198	2.8	
34	153	2.5	
35	227	3.9	
36	202	3.9	176
37	180	3.8	162
38	146	2.9	
39	217	4.3	139
40	145	4.7	70

Minimum additional Signatures needed to reach 7% in 3/4s of Districts (as required by HB31): **869 in 6 districts**

Total signatures required statewide (10%):	24,521
Total qualified:	24,798
Total unqualified:	5,976
Total potential signatures:	33,498

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

97TRAP: Snares in Trapping Wolves (Failed 11/3/98, 83,224 to 140,049)

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	48	0.7	
2	475	6.5	36
3	1354	17.1	
4	1266	16.7	
5	224	3.7	200
6	144	2.8	
7	439	6	74
8	419	6.5	33
9	243	4.2	163
10	1027	14	
11	1096	18.4	
12	1027	16.5	
13	1440	20.1	
14	821	15.9	
15	1432	27.7	
16	1403	37.9	
17	1253	20.7	
18	1291	15.7	
19	1227	20	
20	1182	19.5	
21	1140	19.9	
22	1106	15	
23	641	17.2	
24	977	15.2	
25	863	12.9	
26	765	11.6	
27	692	8.8	
28	919	11.9	
29	481	6.3	51
30	253	4.6	136
31	251	4.4	145
32	121	2.5	
33	214	3	
34	180	3	
35	205	3.6	
36	124	2.4	
37	140	3	
38	113	2.3	
39	113	2.2	
40	111	3.6	104

Minimum additional Signatures needed
to reach 7% in 3/4s of Districts (as required by HB31): **942 in 9 districts**

Total signatures required statewide (10%): 24,521
Total qualified: 27,224
Total unqualified: 11,196
Total potential signatures: 44,190

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

99HEMP: Re-Legalize Hemp (Failed 11/7/00, 114,321 to 165,315)

Election District	Number of Signatures Gathered in District	Percent of 1998 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	45	0.8	
2	56	0.95	
3	230	3.2	
4	181	2.7	
5	80	1.6	
6	331	8.2	
7	422	6.2	57
8	447	7.6	
9	281	5.4	
10	885	12.8	
11	1069	20.2	
12	900	15.5	
13	1276	20.2	
14	647	19.9	
15	1352	31.5	
16	1426	45	
17	1187	22.3	
18	1286	16.5	
19	1202	21.6	
20	1051	19.7	
21	1140	23.7	
22	1106	12	
23	641	21.2	
24	977	13.7	
25	863	14.7	
26	765	15.7	
27	692	18	
28	919	17.7	
29	481	3.8	
30	253	4.6	119
31	251	5.1	91
32	121	4.1	
33	214	5.2	115
34	180	4.4	
35	205	4.3	
36	124	6	46
37	140	7	
38	113	4.9	95
39	113	4.4	121
40	111	7.6	

Minimum additional Signatures needed to reach 7% in 3/4s of Districts (as required by HB31): **644 in 7 districts**

Total signatures required statewide (10%):	22,716
Total qualified:	25,200
Total unqualified:	12,474
Total potential signatures:	41,850

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

99PTAR: Property Tax & Assessment Reform (Failed 11/7/00, 80,276 to 193,760)

Election District	Number of Signatures Gathered In District	Percent of 1998 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	29	0.6	
2	34	0.6	
3	46	0.63	
4	47	0.7	
5	57	1.2	
6	117	2.9	
7	619	9.1	
8	590	9.97	
9	342	6.5	24
10	1304	18.8	
11	1192	22.5	
12	1102	19	
13	960	15.2	
14	691	21.2	
15	861	20.1	
16	971	30.7	
17	1427	26.8	
18	1449	18.5	
19	1365	24.5	
20	953	17.9	
21	1074	21.6	
22	1230	18.5	
23	684	25.4	
24	1162	20.5	
25	1361	22.3	
26	1376	21.5	
27	2144	27.2	
28	1587	20.4	
29	310	4.5	43
30	290	6.1	26
31	303	6.5	66
32	188	5.2	43
33	405	6.3	
34	231	5	
35	297	5.9	55
36	206	4.3	
37	192	4.7	
38	261	5.9	48
39	237	5	93
40	162	6.3	17

Minimum additional Signatures needed
to reach 7% in 3/4s of Districts (as required by HB31): **415 in 9 districts**

Total signatures required statewide (10%): 22,716
Total qualified: 27,859
Total unqualified: 9,585
Total potential signatures: 38,430

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

01PRVT: Alternative Voting Electoral System (Failed 8/27/02, 39,666 to 69,683)

Election District	Number of Signatures Gathered in District	Percent of 2000 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	34	0.5	
2	44	0.6	
3	148	1.9	
4	135	1.8	
5	64	1	
6	85	1.4	
7	821	9.8	
8	827	10.99	
9	938	14.4	
10	1013	11.9	
11	925	14.2	
12	845	11.9	
13	796	10.7	
14	605	12	
15	787	14.96	
16	1005	24.5	
17	1125	15.8	
18	1208	12.7	
19	1088	15.1	
20	853	13.4	
21	995	16.5	
22	947	11.8	
23	522	12.4	
24	843	11.2	
25	754	9.7	
26	928	11.7	
27	1148	11.5	
28	1089	10.4	
29	349	4.2	235
30	211	3.9	172
31	255	4.8	120
32	140	2.7	
33	235	2.9	329
34	162	2.4	
35	216	3.6	206
36	181	3.4	190
37	145	2.97	198
38	109	2.3	
39	121	2.4	
40	145	4.7	73

Minimum additional Signatures needed to reach 7% in 3/4s of Districts (as required by HB31): **1523 in 8 districts**

Total signatures required statewide (10%): 22,716
Total qualified: 22,841
Total unqualified: 7,865
Total potential signatures: 35,046

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

01CHGE: Legislative Move (Failed 11/5/02, 153,127 to 74,650)

Election District	Number of Signatures Gathered in District	Percent of 2000 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	27	0.4	
2	25	0.3	
3	23	0.3	
4	16	0.2	
5	25	0.4	
6	139	2.4	
7	431	5.2	153
8	503	6.7	24
9	491	7.5	
10	1293	15.3	
11	1119	17.2	
12	1156	16.3	
13	1121	15.1	
14	698	13.8	
15	985	18.7	
16	1172	28.5	
17	1318	18.5	
18	1364	14.4	
19	1333	18.5	
20	1015	15.9	
21	1263	20.9	
22	1352	16.8	
23	810	19.2	
24	1314	17.4	
25	1448	18.6	
26	1978	24.9	
27	2355	23.7	
28	2376	22.8	
29	149	1.8	
30	133	2.4	250
31	130	2.4	245
32	83	1.6	
33	149	1.9	
34	100	1.5	
35	265	4.4	157
36	148	2.8	223
37	168	3.4	175
38	134	2.8	204
39	168	3.4	179
40	151	4.9	67

Minimum additional Signatures needed to reach 7% in 3/4s of Districts (as required by HB31): **1677 in 10 districts**

Total signatures required statewide (10%):	28,783
Total qualified:	28,928
Total unqualified:	9,807
Total potential signatures:	47,412

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

01GSLN: Gasline (Passed 11/5/02, 138,353 to 84,682)

Election District	Number of Signatures Gathered in District	Percent of 2000 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	286	4.4	
2	124	1.7	
3	395	5.1	149
4	318	4.3	
5	136	2.2	
6	188	3.2	
7	580	6.96	4
8	509	6.8	18
9	561	8.6	
10	1122	13.2	
11	1160	17.8	
12	1074	15.1	
13	1113	14.9	
14	809	16.1	
15	1089	20.7	
16	1350	32.9	
17	1309	18.3	
18	1250	13.2	
19	1295	17.9	
20	1103	17.3	
21	1363	22.6	
22	1440	17.9	
23	798	18.9	
24	1231	16.3	
25	1188	15.3	
26	902	11.4	
27	929	9.3	
28	874	8.4	
29	377	4.5	
30	269	4.9	
31	310	5.3	65
32	193	3.7	
33	361	4.5	
34	211	3.1	
35	790	13.1	
36	354	6.7	17
37	443	9.1	
38	316	6.5	22
39	593	11.96	
40	269	8.7	

Minimum additional Signatures needed to reach 7% in 3/4s of Districts (as required by HB31): **275 in 6 districts**

Total signatures required statewide (10%): 28,783
Total qualified: 28,982
Total unqualified: 11,754
Total potential signatures: 50,472

(Shaded numbers indicate Districts which met the 7% requirement of HB31)

Initiative and Referendum in the 21st Century

Final Report and Recommendations of the NCSL I&R Task Force

NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

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PREFACE AND ACKNOWLEDGMENTS

The NCSL Initiative and Referendum Task Force assumed a difficult task in addressing such a complicated and highly controversial issue. Thanks to the committed leadership of Senator DiAnna Schimek, the task force was able to quickly focus on the most important issues and eventually come to consensus on a set of recommendations. NCSL is indebted to each one of the task force members who contributed their expertise for this project.

The task force was a diverse, bipartisan group representing seven of the 24 initiative states and the District of Columbia. Its makeup was unique in that it also included industry members. The following legislators, legislative staff, and industry representatives served on the task force:

Honorable DiAnna Schimek, State Senator, Nebraska, Task Force Chair
Chris Badgley, Vice President of State Government Affairs, PhRMA, Washington, D.C.
Jerry Barnett, Ph.D., Principal, Thomas-Huntington Ltd., Missouri
Honorable Jim Costa, State Senator, California
Sharon Eubanks, Senior Attorney for Administration, Office of Legislative Legal Services, Colorado
Honorable Marilyn Jarrett, State Senator, Arizona
Patrick Kelly, Director of State Government Relations, Biotechnology Industry Organization, Washington, D.C.
Tracy Mihas, Manager of I&R and Corporate Issues, Philip Morris Companies, Washington, D.C.
Frank H. Plescia, Senior Director of U.S. State Government Affairs, Monsanto Company, Missouri
Honorable Lane Shetterly, House Speaker Pro Tem, Oregon
Michael Stewart, Senior Research Analyst, Legislative Counsel Bureau, Nevada

The task force was fortunate to gain the insight of many individuals who took the time to appear before the group and share their expertise. The task force is grateful to the following witnesses who contributed their time:

David Broder, *Washington Post*, Washington, D.C.
Lois Court, Save Our Constitution, Colorado
Neal Erickson, Office of the Secretary of State, Nebraska
Wayne Pacelle, Humane Society of the United States, Washington, D.C.
John Perez, Speaker's Commission on the California Initiative Process, California
Honorable Joe Pickens, State Representative, Florida

Larry Sokol, Speaker's Commission on the California Initiative Process, California
M. Dane Waters, Initiative and Referendum Institute, Washington, D.C.
Joseph F. Zimmerman, State University of New York-Albany, New York

Many others helped in the creation of this report, including legislative staff and election officials in initiative states who shared valuable data and took the time to review and confirm information about their states' laws and procedures. Their assistance is greatly appreciated; it contributed to the quality and accuracy of the information in this report.

A number of NCSL staff supported the task force in its work, including Jennie Drage Bowser and Kate Rooney in NCSL's Denver office. Leann Stelzer of the NCSL publications department helped edit and prepare the report for publication, and Scott Liddell of NCSL formatted the report.

EXECUTIVE SUMMARY

On December 7, 2001, the National Conference of State Legislatures assembled a task force to review the growing use of initiatives and referendums around the country and to examine their effect on representative democracy at the state level.

The Initiative and Referendum Task Force found that opportunities for abuse of the process outweigh its advantages and does not recommend that states adopt the initiative process if they currently do not have one.

The task force also developed recommendations that would enable initiative states to make their processes more representative. For states that are intent upon adopting an initiative process, the task force offers a set of guidelines to enhance the process and to avoid many of the pitfalls currently experienced by the initiative states. The task force urges such states to consider giving preference to a process that encourages citizen participation without enacting specific constitutional or statutory language—specifically, the advisory initiative or the general policy initiative.

The 34 recommendations contained in this report acknowledge that the initiative process has outgrown the existing laws that govern it. After listening to expert testimony from a wide variety of witnesses and compiling data from all 50 states, the task force concluded that the initiative has evolved from its early days as a grassroots tool to enhance representative democracy into a tool that too often is exploited by special interests. The initiative lacks critical elements of the legislative process and can have both intended and unintended effects on the ability of the representative democratic process to comprehensively develop policies and priorities.

As a result, the task force suggests that initiative states reform drafting, certification, signature-gathering and financial disclosure statutes; adhere to single subject rules; and improve practices regarding voter education. It also recommends that initiatives be allowed only on general election ballots.

It is the task force's intent that the discussion and adoption of the reforms in this report lead to a more thoughtful lawmaking process, improve interaction between initiative proponents and legislatures, and ultimately produce better public policy and reinforce representative democracy.

TASK FORCE RECOMMENDATIONS

The following 34 recommendations were adopted unanimously at the final meeting of the NCSL Initiative and Referendum Task Force in Denver, Colorado, on April 26-27, 2002.

The task force does not recommend that states that currently do not have an initiative process adopt one. The task force believes that representative democracy is more desirable than the initiative. The disadvantages of the initiative as a tool for policymaking are many, and the opportunities for abuse of the process outweigh its advantages. However, if a state is intent upon adopting an initiative process, the first four recommendations lay out the task force's view of an effectively structured process.

The remaining recommendations deal with specific elements of the initiative process and are intended as guidelines to improve existing procedures. The task force believes that the adoption of these recommendations will improve the initiative process to the benefit of both state government and voters and will result in improved public policy making via the initiative.

General Recommendations Regarding the Initiative Process

Recommendation 1.1: States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should consider:

A. First, adopting the advisory initiative; or
B. In the alternative, adopting the general policy initiative.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Involving the Legislature in the Initiative Process

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

The Subject Matter of Initiatives

Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

The Drafting and Certification Phase

Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be considered public information.

Recommendation 4.2: States should require the drafting and certification of a ballot title and summary for each initiative proposal. Ballot titles must identify the principal effect of the proposed initiative and must be unbiased, clear, accurate, and written so that a "yes" vote changes current law.

Recommendation 4.3: States should require the drafting of a fiscal impact statement for each initiative proposal. The statement should appear on the petition, in the voter information pamphlet, and on the ballot.

Recommendation 4.4: States should establish a review process and an opportunity for public challenge of technical matters, including adherence to single subject rules, and ballot title, summary and fiscal note sufficiency, to be made prior to the signature-gathering phase.

The Signature Gathering Phase

Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Recommendation 5.2: States should provide for safeguards against fraud during the signature gathering process. Safeguards should include:

A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that to the best of the circulator's knowledge, the signatures are valid.
C. Requiring circulators to disclose whether they are paid or volunteer.

Recommendation 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Recommendation 5.5: States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

Voter Education

Recommendation 6.1: States should provide to the public a manual describing the initiative and referendum process.

Recommendation 6.2: States should encourage public education and discussion about measures on the ballot.

Recommendation 6.3: States should produce and distribute a voter information pamphlet containing information about each measure certified for the ballot.

Recommendation 6.4: In addition to a printed voter information pamphlet, states should consider alternative methods of providing information on ballot measures, such as the Internet, video and audio tapes, toll-free phone numbers, and publication in newspapers.

Financial Disclosure

Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.

Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.

Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.

Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

Voting on Initiatives

Recommendation 8.1: States should allow initiatives only on general election ballots.

Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

INTRODUCTION

Initiative and referendum operated quietly in the background of state politics for much of the 20th century, but during the last decade, it has come back into vogue. More initiatives are circulated, more make it to the ballot, and more money is spent in the process than ever before. Consider the numbers: 183 statewide votes on initiatives in the 1970s, 253 in the 1980s, and 383 in the 1990s, more than double the total from the 1970s. California alone accounts for 130 of the total 819 measures during that 30-year period; Oregon can claim 107. Between them, these two states account for nearly 30 percent of all initiatives from 1970 to 1999. It is no wonder that people in California and Oregon are beginning to voice concerns about the initiative process.

Initiative advocates say the resurgence of the initiative is good for states—it means citizens are using it as a tool to implement new laws and reforms that the legislature is unable or unwilling to enact. Besides accomplishing policy change, supporters also say that initiatives increase citizen involvement with government—people are not only more aware state policy issues, but they are also more likely to vote. For these reasons, movements have begun to establish an initiative process in some of the states that currently do not have such a process.

However, in some states where the initiative is heavily used, there is growing public frustration with initiatives, and some people are beginning to speak out against the process. Legislatures are struggling to find ways to prevent fraud in the signature-gathering process; disclose information about who pays for initiative campaigns; and add flexibility to the process to accommodate more debate, deliberation and compromise than presently exists. Equally concerning to many is the disadvantage that, unlike our legislatures' process of representative government, decisions made through the initiative process do not provide an opportunity to accommodate minority interests. Most importantly, initiatives ask voters to make simple yes-no decisions about complex issues without subjecting the issue to detailed expert analysis and without asking voters to balance competing needs with limited resources. In short, the initiative affects the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.

The problems with the initiative process are not easy to solve for a number of reasons. The courts have made it difficult to regulate both petition circulators and initiative campaign finance, and almost any reform can be a difficult political issue because proponents of the initiative generally are hostile to legislative attempts to change the process.

The initiative is a vital and popular part of democracy in half the states (refer to appendix A for a list of initiative states), but it is clear that the initiative has outgrown the existing state laws governing it. NCSL's Initiative and Referendum Task Force set out to first gather the facts and data necessary to paint an accurate picture of how the initiative process works in each state. It identified and focused on problems in the process, then considered ways that the process might be made more open and flexible. The task force feels strongly that the changes it recommends in the initiative process would equally benefit both voters and the legislative process, and that, in the end, a reformed initiative process might produce better public policy.

The task force met three times during a five-month period. Meetings were held on:

- December 7-8, 2001, in Washington, D.C.;
- February 8-9, 2002, in Washington, D.C.; and
- April 26-27, 2002, in Denver, Colorado.

The task force took great care to ensure that it heard testimony from experts and activists on a wide array of issues and from as many points of view as possible. Presenters included both supporters and critics of the initiative process, citizens who use the initiative process, and election administrators. The experts who testified before the task force were:

David Broder, *Washington Post*, Washington, D.C.;
Lois Court, Save our Constitution, Colorado;
Neal Frickson, Office of the Secretary of State, Nebraska;
Wayne Pacelle, Humane Society of the United States, Washington, D.C.;
John Perez, Speaker's Commission on the California Initiative Process, California;
Honorable Joe Pickens, State Representative, Florida;
Larry Sokol, Speaker's Commission on the California Initiative Process, California;
M. Dane Waters, Initiative and Referendum Institute, Washington, D.C.; and
Joseph F. Zimmerman, State University of New York-Albany, New York.

In addition to the experts who testified before the task force, the task force members themselves are experts on the initiative process. The perspectives and suggestions that each member brought to the table contributed to the extensive body of knowledge the task force developed about how the initiative works around the country. Finally, the task force also relied on a wide array of written materials on the initiative process. These include reports from earlier initiative reform commissions and task forces, and the many books and academic papers that are listed in appendix B and in the reference section of this report.

The task force adopted 30 recommendations for legislatures in the initiative states that are seeking guidance on how their initiative process might be improved. Four additional recommendations are meant for states that may be thinking about adopting an initiative process. Although the task force does not recommend that non-initiative states adopt such a procedure, these four recommendations are offered for those states that have, nonetheless, made the decision to go forward.

All the recommendations were based on a set of observations and conclusions about representative and direct democracy that were adopted by the task force at its first meeting. These principles reflect the task force members' belief that it is important to carefully balance the pure democratic impulse of the initiative with the deliberative, consensus-

building practices of representative democracy. It also is the belief of task force members that the adoption of this set of recommended reforms by initiative states will lead to a more thoughtful lawmaking process, improved interaction between initiative proponents and legislatures, and ultimately, better public policy.

Observations and Conclusions About Representative and Direct Democracy

Adopted by the NCSL I&R Task Force on April 27, 2002

We offer in the following observations regarding representative and direct democracy.

1. Representative democracy is the foundation of America's system of government.

2. Representative democracy has provided a stable and flexible system of government that has served America well for more than 200 years.

3. Direct democracy, as envisioned in the initiative and referendum system, was first instituted as a check on representative democracy. It was meant to enhance representative government, not to supercede or abolish it.

4. As intended by its founders, the initiative and referendum process was meant to give citizens a tool to break what they perceived as the hold of special interests over some state legislatures.

5. In most of the 24 states where it exists, the initiative is a popular part of the lawmaking process.

6. The initiative brings to the fore issues that may not receive legislative attention or final action and engages citizens in a debate of important public policy issues.

Based on these observations, we draw the following conclusions about direct democracy.

1. The initiative has evolved from its early days as a grassroots tool to enhance representative government. Today, it is often a tool of special interests.

2. The initiative process, as it exists today, lacks some of the critical elements of the representative system of government, including debate, deliberation, flexibility, compromise and transparency.

3. The initiative process does not involve all the checks and balances that representative government does.

4. The initiative can affect the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.

5. As the initiative process and the way it is used have evolved over time, a review of the laws governing it is merited.

1. General Recommendations Regarding the Initiative Process

Recommendations

The task force does not recommend that states that currently do not have an initiative process should adopt one. However, if a state is intent upon adopting an initiative process, the following four recommendations lay out the task force's view of how an effective process might be structured.

Recommendation 1.1: States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should consider:

A. First, adopting the advisory initiative; or
B. In the alternative, adopting the general policy initiative.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Overview

The task force does not recommend that non-initiative states adopt an initiative process. However, should a state choose to do so, the recommendations in this chapter outline what the task force considers to be an ideally structured initiative process.

The Advisory Initiative

An advisory initiative process provides citizens with a formal means of presenting to the legislature the views of the majority on a particular issue, but stops short of the actual enactment of laws. It permits public input in the decision-making process, and allows the legislature to weigh public opinion in determining the appropriate implementation. In short, the advisory initiative uses a more deliberative lawmaking process than the direct initiative. Another advantage of the advisory initiative over the binding direct initiative is that, with the direct initiative, a slim majority might enact a binding policy measure, but a close vote on an advisory initiative simply indicates a lack of consensus.

Recommendation 1.1(A): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should first consider adopting the advisory initiative.

Several states use the advisory referendum, whereby the legislature or even the governor may place a question on the ballot, asking voters their opinion on an issue. In 2000, for example, the governor of Rhode Island placed an advisory question on the statewide ballot, asking voters if they favored co-equal branches of government. It is much rarer for states to permit citizens to initiate an advisory question.

The General Policy Initiative

A general policy initiative is similar to the advisory initiative discussed above, except that it is binding upon the legislature. If the voters pass a citizen initiative of a general sort—for instance, expressing their desire that the state use tobacco settlement revenues for improving health care—it is up to the legislature to enact the specific laws required to implement that general policy. Like the advisory initiative, the general policy initiative permits direct public input to the policymaking process but uses a more deliberative approach to crafting detailed policy. The general policy initiative offers citizens the opportunity to put their policy ideas before the voters, but offers legislatures more flexibility in implementing voter-mandated policy than does the initiative process currently offered in 24 states.

> Recommendation 1.1(B): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, as an alternative to the advisory initiative, states should consider adopting the general policy initiative.

The Indirect Initiative

The indirect initiative is frequently offered as an improvement over the direct initiative because it allows for legislative analysis, committee hearings and floor debate. Legislative deliberation and debate on the issue itself and its effect on other existing policies may result in an improved initiative proposal because unintended consequences and errors may come to light.

Pitfalls exist in the indirect initiative process, however, which prevent it from being a panacea to the problems of the initiative. The main argument against the indirect initiative is that, where the process is currently offered, legislatures rarely take up the initiative proposal and, when they do, they almost always reject initiative proposals. Rarely do they engage in negotiation with initiative proponents and seek to craft a compromise. Most often, indirect initiatives are rejected by the legislature and end up on the ballot for a popular vote; the indirect process has done little but protract the initiative process.

In spite of its pitfalls, the indirect initiative process is more desirable than the direct initiative process because it allows for more public debate and deliberation, and it involves the legislature, with its professional research and bill drafting staff, in the process.

> Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Eight states currently offer an indirect initiative process. In the indirect initiative process, a proposed initiative is referred to the legislature after proponents have gathered the required number of signatures. The legislature has the option to enact, defeat or amend the measure. Depending on the legislature's action, the proponents may continue to pursue placement on the ballot for a popular vote. In three states (Massachusetts, Ohio and Utah), proponents must gather additional signatures to place the measure on the ballot; in the others, it automatically goes to the ballot.

Table 1. States with an Indirect Initiative Process		
	Constitutional Amendments	Statutory Initiatives
Maine		✔
Massachusetts	✔	✔
Michigan		✔
Mississippi	✔	
Nevada		✔
Ohio		✔
Utah*		✔
Washington*		✔

*State also has a direct initiative process; proponents may select the direct or indirect route.
Note that the table does not represent all forms of the initiative process available in each state; only the indirect processes are represented.
Source: National Conference of State Legislatures, January 2002.

In several states (Maine, Massachusetts, Michigan, Nevada and Washington), it is specifically provided for in law that the legislature may place an alternate proposition on the ballot with the initiative. Voters may vote for one or the other or for neither.

Alaska's and Wyoming's initiative processes are sometimes cited as indirect. However, instead of requiring that an initiative be submitted to the legislature for action, they require only that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned, thus providing the legislature with the opportunity to address the issue if it so chooses.

Two states—Utah and Washington—offer both the direct and indirect initiative process; proponents have the option of choosing either. In Utah, the initial signature requirement is lower for the indirect process. This serves as an incentive to proponents to choose the indirect route and thus incorporate the legislature into the process. Qualifying an initiative directly to the ballot requires signatures equal to 10 percent of the votes cast for governor in the last election; presenting an indirect initiative to the Legislature requires signatures equal to 5 percent of the votes cast for governor in the last election. However, if the indirect initiative is rejected by the Legislature, proponents must gather additional signatures equal to 10 percent of the votes cast for governor, creating a total signature threshold for indirect initiatives that is higher than that for direct initiatives. As a consequence, use of Utah's indirect initiative is significantly lower than use of the direct method.

California had an indirect initiative process until 1966. It was available in addition to the direct process, and proponents were permitted to choose the process they would use. The indirect option was rarely used, and voters approved its abolition in 1966.

Nevada currently has an indirect process for statutory initiatives. At one time, it also had the indirect process for initiative constitutional amendments, but it abolished this option in 1962. Voters approved a constitutional amendment referred by the Legislature that abolished the indirect process for constitutional amendments and at the same time imposed the requirement that any constitutional amendment be approved by a majority vote in two successive elections.

Adopting an indirect initiative process has been suggested as a significant reform by the following individuals and groups.

Professor Joseph Zimmerman, SUNY-Albany (in testimony before the task force in February 2002),
Speaker's Commission on the California Initiative Process (2002),
David Broder, *Washington Post* (in testimony before the task force on Dec. 7, 2001),
Dane Waters, I&R Institute (in testimony before the task force on Dec. 8, 2001),
California League of Women Voters (1999),
City Club of Portland, Oregon (1996),
Citizens' Commission on Ballot Initiatives (California, 1994),
Florida's Citizen Initiative Process Report (1994), and
California Commission on Campaign Financing (1992).

Case Studies: The Indirect Initiative

Switzerland

Switzerland's initiative process, which has long been cited as a model of a successful initiative process and heavily influenced the early development of the initiative in the United States, is an indirect process. When an initiative is submitted to the legislature in a Swiss canton, the legislature has four years to deliberate and act on the measure before it is referred to the ballot. When it does go to the ballot, the legislature often submits a statement of its position on the measure and has the option of placing a competing measure on the ballot. Most important, however, is the fact that many initiatives are withdrawn from the legislature before they reach the ballot. According to Richard Ellis in *Democratic Delusions: The Initiative Process in America*, the most common reason for this is that the legislature has promised or taken action that satisfies the proponents. Ellis writes that:

> "The initiative in Switzerland is thus an integral part of the legislative process and is often used as a spur to get a majority in the legislature to heed the concerns of minority groups that have previously been thwarted in the assembly. Unlike in the United States, where the initiative process is a badly confrontational, zero-sum game, in Switzerland it is often employed to arrive at a consensus by facilitating legislative deliberation and compromise."[1]

Massachusetts

The indirect initiative process used for constitutional amendments in Massachusetts is unique because a citizen-initiated constitutional amendment cannot gain ballot access without first passing the legislature. An initiated constitutional amendment must be approved in two consecutive legislative sessions before it can go on the ballot. In the first session, it may be amended by the legislature with a three-fourths vote, and must be approved by one-fourth of the legislature in a joint session in order to advance to the second legislative session. In the second session, the proposal must again be approved by one-fourth of the legislature in a joint session in order to advance to the ballot. The legislature may not amend the proposal at this point in the process, but it may place a substitute measure on the ballot together with the initiative proposal. Few initiated constitutional amendments survive this process and ultimately land on the ballot (three in the history of the state), but many initiatives that fail to pass the legislature and advance to the ballot succeed in prodding the legislature to take action on the issue.

The process for statutory initiatives in Massachusetts, although still indirect, is less rigorous than the process for constitutional initiatives. A statutory initiative must be

heard by the committee to which it is referred, and the committee must issue a report. If the legislature fails to enact the proposal, proponents may gather a small number of additional signatures to place it on the ballot. The legislature may place its own substitute proposal on the ballot together with the initiative proposal.

The advantages of the Massachusetts indirect initiative are that 1) the legislature is incorporated into the process, resulting in public consideration and debate, and 2) it gives the legislature the opportunity and an adequate period of time to respond to a proposal presented in an initiative. By making the constitutional process more difficult to use, it also directs more proposals toward the statutory initiative instead of the constitutional initiative. Its disadvantage is that it allows the legislature to block an initiative constitutional amendment from reaching the ballot, something that initiative advocates find too restrictive.

1. Richard Ellis, *Democratic Delusions: The Initiative Process in America* (Lawrence, Kan.: University Press of Kansas, 2002, 140-1.

Initiated Statutes vs. Constitutional Amendments

Constitutions are the foundations of state laws and governments. They are sacrosanct and should not be amended hastily or at the whim of a narrow segment of society. In offering an initiative constitutional amendment process, a state runs the risk of accumulating material in its constitution that is statutory in nature, since initiative proponents are left with no other tool to initiate policy.

> Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Offering a statutory initiative process in addition to a constitutional amendment initiative process also can help avoid this problem. Some initiative proponents will choose the statutory process if it is available to them, especially if incentives are offered to encourage the use of the statutory process over the constitutional process.

> Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Other Ideas for Reform

Limits on the Legislature's Power to Amend and Repeal Initiated Statutes

Limiting the legislature's power to amend and/or repeal a statute enacted through the initiative may be an incentive to encourage the use of the statutory initiative over the constitutional initiative. Very often, initiative proponents elect to use the constitutional initiative in order to prevent the legislature from amending or repealing their proposal. If proponents were assured that the legislature's ability to amend and/or repeal statutory initiatives was limited, perhaps they would be more inclined to avail themselves of the statutory initiative process.

Currently, the legislature's power to amend and/or repeal a statute passed by the initiative is restricted in 10 states, and in California, it is expressly prohibited. In these states, a supermajority vote of the legislature is required to amend or repeal an initiated measure, or the legislature may be prohibited from acting on an initiated measure for a specified period of time. In the other 14 states, the legislature is free to amend or repeal an initiated measure at any time.

Table 2. Legislative Amendment and Repeal of Initiated Measures

	Restriction
Alaska	No repeal within two years; amendment by majority vote anytime
Arizona	No repeal; 3/4 vote to amend; amending legislation must "further the purpose" of the measure
Arkansas	2/3 vote of the members of each house to amend or repeal
California	No amendment or repeal of an initiative statute by the Legislature unless the initiative specifically permits it
Michigan	3/4 vote to amend or repeal
Nevada	No amendment or repeal within three years of enactment
North Dakota	2/3 vote required to amend or repeal within seven years of effective date
Oregon	2/3 vote required to amend or repeal within two years of enactment
Washington	2/3 vote required to amend or repeal within two years of enactment
Wyoming	No repeal within two years of effective date; amendment by majority vote any time

Source: National Conference of State Legislatures, January 2002.

Recent Legislative Action

In the period of 1999-2002, 17 non-initiative states saw legislation proposing the adoption of an initiative process. In Minnesota, an initiative bill passed the House twice in recent years. In fact, Minnesota voters have voted against adopting the initiative three times since 1913. However, the vote has been close, and the idea of adopting the initiative process continues to have strong support in Minnesota. In New York, Governor Pataki urged the adoption of the initiative in his 2002 state-of-the-state address. Several initiative bills currently are pending in the New York Legislature, one of which has passed the Senate.

Florida, which has had an initiative process for constitutional amendments since 1972, considered a bill in 2002 that would have provided for citizen initiatives to amend the statutes, as well. The bill would have modified the constitutional initiative process at the same time, changing the vote requirement from a simple majority to a two-thirds vote and requiring economic impact statements for all initiatives. The bill passed the House but failed to pass the Senate.

2. Involving the Legislature in the Initiative Process

Recommendations

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

Overview

Further integrating the legislature into the initiative process would result in improved policymaking in the initiative states. Initiatives often tie the hands of the legislature, preventing state legislatures from developing broad, cohesive state policies. Improving the adversarial nature of the relationship between initiative advocates and state legislatures would be beneficial to legislatures and initiative proponents alike—initiative proponents would be more likely to see the legislature enact the policies they advocate, and legislatures would face fewer voter-mandated policies that restrict their flexibility and discretion in the lawmaking process.

Furthermore, increasing legislative involvement in the initiative process enhances the debate that surrounds initiative proposals and provides more opportunity for public access and input to the initiative process.

The Indirect Initiative

As discussed in chapter one, the indirect initiative process is more desirable than the direct process. In Utah and Washington, however, which have both types of processes, the indirect variety is rarely used. If states provided incentives—such as creating a lower signature threshold and a longer circulation period for indirect measures, or requiring the legislature to hold hearings on all indirect initiatives submitted—to proponents to use the indirect process, perhaps more proponents would be drawn to the indirect process. The benefits of such incentives also might include a significant monetary savings for proponents if they are able to reach a compromise with the legislature and thus avoid a campaign, and an improved end product, thanks to the legislative hearing process. No matter how a state chooses to structure an indirect initiative process, the legislature must actively interact and negotiate in good faith with initiative proponents if the process is to be effective.

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Public Hearings on Initiatives

Public hearings provide a forum for expert testimony, staff research and analysis, and debate by opposing sides. They also establish a public record of the proponents' intent, which could be useful to voters, to both sides in a campaign, and also in later court challenges, should they arise. Public hearings could be handled in several ways. The legislature itself could hold hearings on measures that have gathered a specified minimum percentage of the required signatures or on measures that have qualified for the ballot. As an alternative, the secretary of state could be required to hold public hearings on initiatives.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

The organizations and individuals recommending public hearings for initiatives include:

Dane Waters of the I&R Institute (in testimony before the task force in December 2001),
California League of Women Voters (1999),
City Club of Portland, Oregon (1996),
Nebraska Petition Process Task Force (1995),
California Post Commission (1994), and
California Commission on Campaign Financing (1992).

Case Studies: Public Hearings on Initiatives

California's Senate Bill 384, proposed in the 1999-2000 legislative session, would have triggered public hearings for any initiative that obtained 15 percent of the required signatures. After the hearing, proponents would be permitted to make non-substantive technical changes—such as correcting drafting errors or making stylistic changes—then could continue to gather the remaining required signatures.

Oregon's House Bill 3487 from the 1999 legislative session would have created a 12-member citizen initiative review committee appointed by the governor, the president of the Senate, and the speaker of the House. After holding hearings on a proposal, the committee would be required to issue a report to the public and the news media, identifying issues raised by the proposal and including a fiscal impact estimate and summaries of all public testimony received at hearings. Proponents would be permitted to make non-substantive amendments to the initiative, subject to attorney general approval, after the report was issued.

Referring Legislative Alternatives to Initiative Proposals

If the legislature feels that an initiative measure is flawed, it should exercise its right to place an alternative measure on the ballot. When the legislature's proposal is placed on the ballot together with an initiative, voters are offered more than a simple yes/no vote—they

are offered policy choices. The presence of similar but competing measures on the ballot also can prompt public debate and analysis of the proposals, resulting in more thorough attention to the perceived problem and potential solutions the measures address.

> Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

Support for this reform has been expressed by Professor Joseph Zimmerman (in testimony before the task force in February 2002) and the California Post Commission (1994).

Case Studies: Legislative Alternatives to Initiatives

In at least five states (Maine, Massachusetts, Michigan, Nevada and Washington), the legislature is specifically granted the power to place alternatives to initiatives on the ballot. In most other states, the legislature is neither specifically granted nor denied that power. The Maine Legislature frequently chooses to exercise this right. In 1996, for example, Question 2A appeared on the ballot. It was a citizen initiative that sought to ban the timber harvesting practice of clearcutting in the state. The Legislature placed Question 2B on the ballot, a more moderate proposal. Voters also were offered Question 2C, which was a vote for neither 2A nor 2B. Question 2B, the Legislature's alternative to the initiative, passed.

Recent Legislative Action

California, Oregon and Utah considered bills that would permit the legislature to make certain amendments to proposed initiatives before they are placed on the ballot. Utah passed HB 143 in 1999, which allows the Legislature to make technical corrections to indirect initiatives submitted to the Legislature and to prepare a legislative review note and fiscal note for indirect initiatives. Four states considered requiring legislative review and comment on proposed initiatives.

3. The Subject Matter of Initiatives

Overview

It is common for states to prohibit the use of the initiative for certain subjects. In Massachusetts and Mississippi, for instance, the initiative cannot be used to modify or repeal the rights of individuals, and several states prohibit initiatives that deal with the judiciary. These are fundamental matters of law, and it is appropriate that some states should choose to remove them from the purview of the initiative process. Some scholars and reformers argue that the same argument extends to state constitutions—that they are the foundations of state law, and changing them should not be entered into lightly.

Recommendations

Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

Constitutional vs. Statutory Initiatives

In many initiative states, constitutions are becoming cluttered with matter that is more appropriate for the state's statutes. Initiative proponents often use the constitutional amendment rather than the statutory initiative because they fear the legislature might amend or repeal their initiative if they place it in statute. They are further encouraged to use the constitutional amendment because it is rarely more difficult or costly to pass than a statutory initiative. States could implement reforms that provide incentives for using the statutory process, such as lower signature thresholds and increased circulation periods. They can also reassure proponents by enacting time limits during which the legislature may only amend an initiated statute with a supermajority vote. This subject is also discussed on page 10 in chapter one.

> Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

The City Club of Portland made a similar recommendation in 1996. Their recommendation states that the process for amending the Oregon Constitution should be substantially more difficult than adopting, amending or repealing a statute.

Single Subject Rules

Single subject rules require that an initiative address only one question or issue. Such rules benefit the initiative process because they make initiatives simpler and easier to understand. There is a danger in permitting a popular vote on a measure that addresses multiple, distinct subjects. How might a voter express his support of one subject but his rejection of another in such a situation? The lack of a single subject rule also leaves the door open to proponents who might try to make an unpopular idea more palatable by pairing it with a popular idea in a single initiative. In such cases, it is impossible to determine the majority's viewpoint on an issue.

> Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Single subject rules also are common in legislatures—41 states have constitutional provisions stipulating that bills may address only one subject, and several others have chamber rules for single-subject bills.

Among the groups that express support for single subject rules are:

Speaker's Commission on the California Initiative Process (2002),
Professor Joseph Zimmerman (in testimony before the task force, February 2002),
California League of Women Voters (1999),
Nebraska Petition Process Task Force (1995),
California Policy Seminar (1991), and
Los Angeles Times (1990).

Currently, the following 12 initiative states require that initiatives address no more than one subject. Wide variation exists in how these states define "single subject" and in how courts have interpreted the definitions.

Alaska	Florida	Oklahoma
Arizona	Missouri	Oregon
California	Montana	Washington
Colorado	Nebraska	Wyoming

Banning Similar Measures from the Ballot for a Specified Period of Time

Banning the same or a substantially similar measure from reappearing on the ballot for a specified period of time helps to reduce the number of measures on the ballot.

> Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

Five states currently prohibit the same or a substantially similar measure from reappearing on the ballot for a specified period of time after it is rejected by voters. Time periods range from two years in Mississippi to five years in Wyoming. If an initiative is found to be the same or substantially similar to an initiative that appeared on the ballot within the specified time frame, state election officials deny the proponent's initiative application.

In none of these states are the terms "same" and "substantially similar" defined in statute or the constitution. The decision about whether a measure is the "same" or "substantially similar" is left to a state official, generally the state's chief election officer or, ultimately, the courts.

Table 3. States with Bans on Same/Substantially Similar Initiatives

	Language of the Ban	Time Period
Massachusetts	A measure cannot be substantially the same as any measure that has been qualified for submission or appeared on the ballot at either of the two preceding biennial state elections.	Six years (banned from next two biennial state elections)
Mississippi	If an initiative is rejected, no initiative petition proposing the same or substantially the same amendment shall be submitted to the electors.	Two years
Nebraska	The same measure, either in form or in essential substance, shall not be submitted by initiative petition more often than once in three years.	Three years
Oklahoma	Any initiative measure rejected by the people cannot be again proposed by initiative within three years by less than 25 percent of the legal voters.	Three years
Wyoming	An initiative petition may not be filed for a measure substantially the same as that defeated by an initiative election within the preceding five years.	Five years

Source: National Conference of State Legislatures, April 2002.

In many states, a similar restriction is imposed on the legislature, prohibiting bills that have been defeated (or bills that are substantially the same as ones defeated) from being reintroduced—either as a bill or an amendment—during the same legislative biennium. Florida, Mississippi, Ohio and Wyoming are examples of initiative states with such rules for their legislatures.

Table 4 summarizes all initiative subject restrictions.

Table 4. Initiative Subject Restrictions

	Single Subject?	Other Subject Restrictions
Alaska	Yes	No revenue measures No appropriations No acts affecting the judiciary No local or special legislation
Arizona	Yes	None
Arkansas	No	None
California	Yes	May not include or exclude any political subdivision of the state from application or effect. May not contain alternative or cumulative provisions wherein one or more of those provisions would become law, depending upon the casting of a specified percentage of votes for or against the measure.

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
Colorado	Yes	None
Florida	Yes	May not include limitations on the power of government to raise revenue.
Idaho	No	None
Illinois	Yes	Allowed only for amendment of constitutional Article IV, relating to structural and procedural subjects concerning the legislative branch.
Maine	No	Any measure providing for an expenditure of funds in excess of those appropriated becomes inoperative 45 days after the legislature convenes.
Massachusetts	No*	No measures relating to: • Religion • The judiciary • Specific appropriations • Local or special legislation • The 18th amendment of the constitution • Anything inconsistent with the rights of individuals as enumerated in the constitution A measure cannot be substantially the same as any measure that has been qualified for the ballot or appeared on the ballot in either of two preceding general elections.
Michigan	No	The initiative power extends only to laws that the Legislature may enact.
Mississippi	No	The initiative cannot be used to amend/repeal the: • Bill of Rights • Public employees' retirement system • Right-to-work provision • Initiative process Only first five certified measures may go on ballot If a measure is rejected by voters, no identical or substantially similar measure may go on ballot for a minimum of two years. If an initiative requires a reduction in government revenue or a reallocation from currently funded programs, the initiative text must identify the program or programs whose funding must be reduced or eliminated to implement the initiative.
Missouri	Yes	No appropriations of money other than new revenues created and provided for by the initiative. Cannot be used for any purpose prohibited by the state's constitution
Montana	Yes	No appropriations No local or special laws
Nebraska	Yes	Limited to matters that can be enacted by legislation and cannot interfere with Legislature's ability to direct taxation for state and governmental subdivisions. The same measure cannot be initiated more often than once in three years.
Nevada	No	No appropriations Cannot require an expenditure of money unless a sufficient tax is provided as part of the initiative proposal.

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
North Dakota	No	No emergency measures No appropriation measures for the support and maintenance of state departments and institutions
Ohio	No	May not be used to pass a law: • Authorizing any classification of property for the purpose of levying different rates of taxation thereon • Authorizing the levy of any single tax on land, land values or land sites at a higher rate or by a different rule than is applied to improvements thereon or to personal property
Oklahoma	Yes	Initiatives rejected by the voters cannot be proposed again for three years by less than 25 percent of the state's legal voters
Oregon	Yes	None
South Dakota	No	No private or special laws
Utah	No	None
Washington	Yes	None
Wyoming	Yes	Cannot be used to: • Dedicate revenues • Make or repeal appropriations • Create courts • Define the jurisdiction of courts • Prescribe court rules • Enact local or special legislation • Enact legislation prohibited by the Wyoming constitution The same measure cannot be initiated more often than once in five years.

*In interviews conducted in May 2002, election officials in Massachusetts said that although that state does not have a single subject rule, it does have a requirement that an initiative contain only subjects that are related or mutually dependent. Courts have interpreted relatedness to mean that "... one can identify a common purpose to which each subject of [the] initiative petition can reasonably be said to be germane."
Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

Restrictions on the Dedication of Revenue

Initiative measures that mandate the expenditures of large amounts of public revenue without including a new dedicated revenue source (such as taxes or fees) can make it difficult for the legislature to continue to fund existing state services and programs. In addition, initiatives that increase or create new taxes to fund new or existing programs negatively affect the legislature's ability to impose reasonable taxes to fund necessary programs for citizens. Although the task force agreed that initiatives limiting or dedicating revenue or otherwise imposing fiscal policies can be a significant problem—perhaps even the most serious problem—in the initiative process, members were unable to agree on a specific recommendation to address the issue.

The City Club of Portland recommended in 1996 that Oregon's initiative process be changed so that initiatives that dedicate revenue or require appropriations in excess of $500,000 per year should be required to provide new revenues.

Eleven states currently have restrictions on the use of the initiative with regard to appropriations and funding mechanisms.

Table 5. Restrictions on Imposing Fiscal Policies Via the Initiative

	Restriction
Alaska	No dedication of revenues or making or repealing appropriations.
Florida	Tax or fee increases require a 2/3 vote to pass.
Maine	Expenditures in an amount in excess of available and unappropriated state funds remain inoperative until 45 days after the regular legislative session, unless the measure provides for raising new revenues adequate for its operation.
Massachusetts	May not be used to make a specific appropriation from the treasury. However, if such a law, approved by the people, is not repealed, the legislature must raise by taxation or otherwise and appropriate such money as may be necessary to carry such law into effect.
Mississippi	Sponsor must identify in the text of the initiative the amount and source of revenue required to implement the initiative. Initiatives requiring a reduction in government revenue or a reallocation from currently funded programs must identify the program(s) whose funding must be reduced or eliminated to implement the initiative.
Missouri	May not appropriate money other than new revenues created and provided for by the initiative.
Montana	May not appropriate money.
Nebraska	No measure that interferes with the Legislature's ability to direct taxation of necessary revenues for the state and its governmental subdivisions.
Nevada	No appropriations or other expenditures of money, unless such statute or amendment also imposes a sufficient tax or otherwise constitutionally provides for raising the necessary revenue.
North Dakota	No appropriations for the support and maintenance of state departments and institutions.
Wyoming	No dedication of revenues or making or repealing appropriations.

Source: National Conference of State Legislatures, April 2002.

Recent Legislative Action

A total of 29 bills dealing with initiative subject matter were introduced in 14 states between 1999 and 2002. None have passed to date. Among the most common subjects were:

- Prohibiting or restricting appropriations and reductions in state revenue via an initiative (considered in Arizona, Mississippi and Washington); a bill is pending in Michigan that would prohibit using the popular referendum for acts whose primary purpose is to make appropriations or meet deficiencies in state funds.

- Strengthening and providing for interpretation of single subject rules (pending in California; also considered in Oklahoma).

- Making it more difficult to propose and pass wildlife measures (considered in Alaska, Massachusetts, Oklahoma and Washington).

- Banning a measure that is failed by voters from returning to the ballot for a specified period of time (considered in Maine and Oregon).

Other measures that address initiative subjects included a 1999 bill in Arizona that would have established a four-year sunset provision for initiatives that establish the functions or activities of a state agency; a 1999 Oregon bill that would have prohibited initiatives that result in the taking of private property; and a pending bill to enact an initiative procedure in New Jersey that would be limited to campaign finance, lobbying, government ethics and election procedures. A failed 1999 bill in Oregon would have limited initiative amendments to the constitution to the structure and powers of government and the rights of people with respect to their government, and would have prohibited initiated constitutional amendments that dedicated or appropriated revenue, repealed appropriations, or required expenditures in excess of $500,000 per year.

4. The Drafting and Certification Phase

Recommendations

Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be public information.

Recommendation 4.2: States should require the drafting and certification of a ballot title and summary for each initiative proposal. Ballot titles must identify the principal effect of the proposed initiative and must be unbiased, clear, accurate and written so that a "yes" vote changes current law.

Recommendation 4.3: States should require the drafting of a fiscal impact statement for each initiative proposal. The statement should appear on the petition, in the voter information pamphlet, and on the ballot.

Recommendation 4.4: States should establish a review process and an opportunity for public challenge of technical matters, including adherence to single subject rules, and ballot title, summary and fiscal note sufficiency, to be made prior to the signature-gathering phase.

Overview

Certifying an initiative for signature collection is an involved process with many steps and deadlines. No two states have exactly the same certification requirements. Generally, however, the process includes these steps:

1) Drafting the initiative proposal;
2) Preparation of a ballot title and summary;
3) In some states, preparation of a fiscal analysis; and
4) Technical challenges to ballot titles, summaries and fiscal analyses.

Drafting the Initiative Proposal

Often, initiatives are drafted by citizens who have little or no legal background or expertise. Making the legislature's professional bill drafting staff available to proponents may help to prevent errors in drafting and ensure that a proposal's language is in the proper form and harmonizes with other constitutional or statutory language. Advice from the legislature's legal experts also may help initiative proponents recognize constitutional flaws and unintended consequences of their proposal. Correcting such problems early in the process can help proponents avoid costly court battles later in the process. In short, assistance and advice from legislative bill drafting staff may help improve the quality and consistency of initiative measures. Making public the comments and recommendations of such a review process is important because it can draw attention to issues that otherwise might escape public notice.

> Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be considered public information.

Similar reforms have been proposed by the following:

California League of Women Voters (1999),
City Club of Portland, Oregon (1996), and
Nebraska Petition Reform Task Force (1995).

Presently, some states offer no assistance or advice to initiative proponents on the draft of their proposed law. The states that do offer assistance generally have one of two basic levels of review, which may be provided either prior to filing the initiative or upon filing. In some states, the review is purely technical; the proposal is reviewed to ensure it meets the legal requirements for format and style and adheres to drafting conventions. However, 11 states go further and offer some sort of drafting assistance in order to improve the quality and consistency of initiative proposals. In these states, sponsors may take a draft or even just an idea to a legislative office for assistance with the form and content of the initiative before submitting the proposal to the appropriate state official. Sponsors' acceptance of any recommendations made is optional. Table 6 contains a list of technical and content-oriented state agency review.

Table 6. State Agency Review

	Technical	Content	Who Reviews
Alaska	No	Optional	Department of Law
Arizona	Mandatory*	No	Secretary of State
Arkansas	Mandatory	No	Secretary of State
California	Optional	Optional	Legislative Counsel
Colorado	Mandatory	Mandatory	Legislative Council and Legal Services
Florida	Mandatory	No	Division of Elections
Idaho	Mandatory	Mandatory	Attorney General
Illinois	No	No	N/A
Maine	Mandatory	No	Secretary of State
Massachusetts	Mandatory	Mandatory	Attorney General
Michigan	Optional	No	Bureau of Elections
Mississippi	Mandatory	Mandatory	Revisor of Statutes
Missouri	Mandatory	No	Secretary of State and Attorney General
Montana	Mandatory	Mandatory	Legislative Services Division and Attorney General
Nebraska	Mandatory	No	Revisor of Statutes
Nevada	Mandatory	No	Secretary of State
North Dakota	Mandatory	No	Secretary of State and Attorney General
Ohio	No	No	N/A
Oklahoma	Mandatory	No	Attorney General and Secretary of State
Oregon	Optional	Optional	Legislative Counsel and State Treasurer
South Dakota	Mandatory	No	Director of Legislative Research Council
Utah	Mandatory	Mandatory	Lieutenant Governor
Washington	Optional	Optional	Assistant Code Revisor
Wyoming	Mandatory	Mandatory	Secretary of State; Legislative Service Office and executive agencies may render assistance

* In all states, the designation "Mandatory" indicates that the review process is mandatory, not that adherence to the recommendations made as a result of the review process is mandatory.
Source: National Conference of State Legislatures, April 2002

Of the 11 states that offer some sort of drafting assistance, a wide range of services is offered. In at least four states—California, Massachusetts, Montana, and Oregon—initiative sponsors may take a draft or just an idea to drafters in their state for assistance. California serves as an example of a state that offers extensive assistance to proponents during the drafting

process. There, an initiative sponsor may take an idea to the Legislative Counsel, and a staff member will draft the language of the initiative for the sponsor.

Case Study: Initiative Drafting and State Agency Review

Colorado's Review and Comment Process

In Colorado, the Legislative Council staff and Legislative Legal Services conduct a public hearing to present their review and comments on proposed initiatives. The comments are intended to help proponents clarify their proposal, but they are not required to accept any suggestions offered by legislative staff. The meeting, held in the Capitol, is open to the public and although people who may oppose a measure are welcome to attend, no testimony or comments are accepted from anyone other than the proponents. The meeting is taped and becomes public record. Proponents are required to go through this process before they can move on to the next step of setting a title.

Preparation of a Ballot Title and Summary

The ballot title and summary are arguably the most important part of an initiative in terms of voter education. Many voters never read more than the title and summary of the text of initiative proposals. Therefore, it is of critical importance that titles and summaries be concise, accurate and impartial.

Recommendation 4.2: States should require the drafting and certification of a ballot title and summary for each initiative proposal. Ballot titles must identify the principal effect of the proposed initiative and must be unbiased, clear, accurate, and written so that a "yes" vote changes current law.

Presently, a wide range of procedures exists in states for ballot title setting. In Colorado there is a special Ballot Title Board. Initiative proponents must appear before the board, which assigns a title, before the sponsor is authorized to gather signatures. In some states, the title is written by the sponsor, subject to the approval of a state official. In other states, the ballot title is written either by the attorney general, secretary of state or lieutenant governor. Table 7 contains a detailed list of who drafts ballot titles.

Table 7. Drafting the Initiative Title

	Party Responsible for Drafting Title		Where to File Challenge
	Petition	Ballot	
Alaska	Proponent (approved by Lt. Governor)	Lt. Governor and Attorney General	Superior Court
Arizona	Proponent	Proponent (approved by Attorney General)	Superior Court
Arkansas	Proponent (approved by Attorney General)	Proponent (approved by Attorney General)	Supreme Court
California	Attorney General	Attorney General	Sacramento County District Court
Colorado	Secretary of State and Ballot Title Board	Secretary of State and Ballot Title Board	Supreme Court
Florida	Proponent (approved by Secretary of State)	Proponent (approved by Secretary of State)	Supreme Court
Idaho	Attorney General	Attorney General	Supreme Court
Illinois	Proponent (approved by Board of Elections)	Proponent (approved by Board of Elections)	Not specified in law

Table 7. Drafting the Initiative Title (continued)			
	Party Responsible for Drafting Title		Where to File Challenge
	Petition	Ballot	
Maine	Secretary of State	Secretary of State	Superior Court
Massachusetts	Proponent (approved by Attorney General)	Secretary of State (approved by Attorney General)	Supreme Judicial Court
Michigan	Proponent	Director of Elections with the approval of the Board of State Canvassers	State District Court
Mississippi	Attorney General	Attorney General	Circuit Court of 1st Judicial District of Hinds County
Missouri	Secretary of State	Secretary of State	Circuit Court of Cole County, appeal to Supreme Court
Montana	Attorney General	Attorney General	District Court in Lewis and Clark County
Nebraska	Same as summary by proponent	Attorney General	District Court
Nevada	None (Full text only)	None (summary only)	N/A
North Dakota	Secretary of State and Attorney General	Secretary of State and Attorney General	Supreme Court
Ohio	Proponent (approved by Attorney General)	Proponent (approved by Attorney General)	Not specified in law
Oklahoma	No separate title; summary serves as title	Proponent (approved by Secretary of State and Attorney General)	Supreme Court
Oregon	Attorney General	Attorney General	Supreme Court
South Dakota	None required	Attorney General	Circuit Court
Utah	None required	Office of Legislative Research and General Counsel (approved by Lt. Governor)	Supreme Court
Washington	Attorney General	Attorney General	Thurston County Superior Court
Wyoming	Proponent	Secretary of State	District Court of Laramie County

Source: National Conference of State Legislatures, January 2002.

At the time the ballot title is drafted, the title-setting entity often includes a statement of what the result of a "yes" vote means if the measure is passed and what the result of a "no" vote means if the measure is defeated. In Oregon, this statement is drafted by the attorney general and may not exceed 25 words. In Washington, the ballot title, drafted by the attorney general, consists of three parts: a statement of the subject of the petition in 10 words or less, a concise summary in 30 words or less, and a question crafted in a way that clearly defines what a "yes" and a "no" vote mean.

Two types of summaries are drafted for initiatives. The first is the summary that appears on the petition; it is usually drafted by the same person or agency that drafts the ballot title. The other summary appears in the voter information pamphlet, which is discussed further in chapter six. In all states, the summary, whether drafted by proponents, the attorney general, secretary of state, or another state agency, is a concise statement of the main points of the proposed measure. Proposed initiative summaries in all states are required to be impartial and non-argumentative. The number of words usually is limited; in Washington, it is limited to 75 words written by the attorney general, and in Florida, it also is

limited to 75 words written by the sponsor, with the approval of the secretary of state. See table 8 for a detailed description of state procedures for drafting summaries.

Table 8. Drafting the Initiative Summary

	Party Responsible for Drafting Title		Where to File Challenge
	Petition	Ballot	
Alaska	Lt. Governor and Attorney General	Proponent (approved by Lt. Governor	Superior Court
Arizona	None	Secretary of State (approved by Attorney General)	Superior Court
Arkansas	Proponent (approved by Attorney General)	Proponent (approved by Attorney General)	Supreme Court
California	Attorney General	Attorney General	Sacramento County District Court
Colorado	None	Secretary of State and Ballot Title Board	Supreme Court
Florida	Proponent (approved by Secretary of State)	Proponent (approved by Secretary of State)	Supreme Court
Idaho	Attorney General	Attorney General	Supreme Court
Illinois	Proponent (approved by Board of Elections)	Proponent (approved by Board of Elections)	Not specified in law
Maine	Revisor of Statutes, approved by Secretary of State	Revisor of Statutes (approved by Secretary of State)	Superior Court
Massachusetts	Secretary of State	Secretary of State	Supreme Judicial Court
	(approved by Attorney General)	(approved by Attorney General)	
Michigan	None	Director of Elections (approved by Board of State Canvassers	State District Court
Mississippi	Attorney General	Attorney General	Circuit Court of 1st Judicial District of Hinds County
Missouri	None	Attorney General	Circuit Court of Cole County, appeal to Supreme Court
Montana	Attorney General	Attorney General	District Court in and for the County of Lewis and Clark
Nebraska	Proponent	Attorney General	District Court
Nevada	None	Secretary of State and Attorney General	Not specified in law
North Dakota	Secretary of State (approved by Attorney General)	Secretary of State (approved by Attorney General)	Supreme Court
Ohio	Proponent (approved by Attorney General)	Proponent (approved by Attorney General)	Not specified in law
Oklahoma	Proponent (approved by Secretary of State and Attorney General)	Proponent (approved by Secretary of State and Attorney General)	Supreme Court
Oregon	Attorney General	Attorney General	Supreme Court
South Dakota	None	Attorney General	Circuit Court
Utah	None	Attorney General	Supreme Court
Washington	Attorney General	Attorney General	Thurston County Superior Court
Wyoming	None	Secretary of State	District Court of Laramie County

Source: National Conference of State Legislatures, January 2002.

Preparation of a Fiscal Analysis

Fiscal impact statements are an important component of voter education on initiative proposals. Voters often do not have the budgetary perspective necessary to make an informed decision about an initiative. Often, they enact a measure and it is left to the legislature to determine where the money will come from, which can mean redirecting funds from other programs.

> Recommendation 4.3: States should require the drafting of a fiscal impact statement for each initiative proposal. The statement should appear on the petition, in the voter information pamphlet, and on the ballot.

It is currently the law in 12 states that, if a proposed initiative will have a monetary effect on the state's budget, a fiscal impact statement must be drafted (see table 9). A legislative fiscal agency generally writes it, and it appears on the petition, in the voter info pamphlet, and/or on the ballot.

Table 9. Fiscal Impact Statements

	Who Prepares It	Where It Is Published
Arizona	Joint Legislative Budget Cmte. (after measure qualifies for ballot)	Voter information pamphlet
California	Dept. of Finance, Joint Legislative Budget Cmte., and Attorney General	Petition, voter information pamphlet, and ballot (included in title prepared by Attorney General)
Colorado	Director of Research of the Legislative Council	Voter information pamphlet
Mississippi	Legislative Chief Budget Officer	Petition, voter information pamphlet, and ballot (included in text)
Missouri	State Auditor and Attorney General	Petition, voter information pamphlet, and ballot (included in title)
Montana	Budget Director	Petition, ballot and voter pamphlet
Nevada	Secretary of State, in consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau	Ballot, voter information pamphlet
Ohio	Tax Commissioner	Voter information pamphlet
Oregon	Secretary of State, Treasurer, Director of Dept. of Administrative Services, and Director of Dept. of Revenue	Voter information pamphlet, ballot
Utah	Office of Legislative Research	Voter information pamphlet
Washington	Office of Financial Management, in consultation with the Secretary of State, Attorney General, and any other appropriate state or local agency	Voter information pamphlet, Secretary of State Web site
Wyoming	Secretary of State and/or initiative sponsors*	A newspaper of general circulation in state and ballot

*If the final estimated fiscal impact by the Secretary of State and the final estimated fiscal impact by the committee of sponsors differ by more than twenty-five thousand dollars ($25,000.00), the Secretary of State's comments under this section and the ballot proposition (published in newspaper and ballot) shall contain an estimated range of fiscal impact reflecting both estimates.
Source: National Conference of State Legislatures, April 2002.

One may argue that, even if voters have fiscal information, it is meaningless unless the public knows how big the budget is. Simply attaching a dollar amount to a measure may not provide enough information. To make a fiscal statement meaningful, it must be considered in the context of the fiscal resources of the state. Suggestions include printing pie charts or graphs to illustrate the fiscal impact of the proposed measure in the context of

state resources. The City Club of Portland, Ore., recommended in 1996 that the Secretary of State be required to prepare a general statement in the Voters' Pamphlet that lists the estimated financial effects of each ballot measure upon the general fund and the combined effect if all were to be approved.

Case Study: Fiscal Analysis

California

If the Attorney General determines that the initiative measure requires a fiscal analysis, the Department of Finance and the Joint Legislative Budget Committee are required to prepare an analysis within 25 working days from the date they receive the final version of the proposed initiative measure. The fiscal analysis includes either the estimate of the amount of any increase or decrease in revenues or costs to state or local governments, or any opinion as to whether a substantial net change in state or local finances would result if the proposed initiative measure is adopted. The fiscal analysis is part of the measure's title prepared by the Attorney General, which appears both on petitions and on the ballot. It is also included in the voter information pamphlet.

Technical Challenges: Ballot Titles, Summaries and Fiscal Notes

If a sponsor or other qualified voter is dissatisfied with a title, summary or fiscal analysis, most states have a procedure for challenging and petitioning to change it. In some cases, however, the outcome of challenges is not decided until after the election, often after an initiative has been passed by the voters. Proponents have expended a great deal of effort—and often a great deal of money, as well—to gather signatures and qualify an initiative, and are justified in judging it unfair when a measure is stricken by the court for a technical reason after it has passed.

Although building a time period and a process for technical challenges into the certification process cannot prevent post-election challenges entirely, it can encourage such challenges at an early stage in the process.

> Recommendation 4.4: States should establish a review process and an opportunity for public challenge of technical matters, including adherence to single subject rules, and ballot title, summary and fiscal note sufficiency, to be made prior to the signature-gathering phase.

Similar reforms have been advocated by the following.

Wayne Pacelle, Humane Society of the United States (in testimony before the task force, February 2002),
M. Dane Waters, I&R Institute (in testimony before the task force, December 2001), and Citizens' Commission on Ballot Initiatives (California, 1994).

Nebraska's challenge process, similar to other states', serves as an example for how the process generally works. Any person dissatisfied with the title provided by the Attorney General may file a petition with the district court, asking for a different title and setting forth the reasons why the title prepared by the Attorney General is insufficient or unfair. The challenge must be filed within 10 days of the Attorney General's decision. The dis-

trict court then examines the measure, hears arguments, and certifies to the Secretary of State a ballot title for the measure in accord with the intent of the proposed initiative.

In most states, any challenges to the title or summary of a ballot measure must take place during the certification process; that is, before signature collection. However, in at least two states, ballot titles are reviewed after signature collection.

In Arkansas, the state Supreme Court hears challenges to ballot titles only after the signature-gathering phase is complete and a measure is certified for the ballot. In considering titles, the court either allows or disallows the initiative; it makes no attempt to rewrite the title. If a title is disallowed, the measure is stricken from the ballot and proponents must start over.

In Florida, petitioners gather at least 10 percent of required signatures, then submit the ballot title for approval. Proponents write their own title, which includes a 15-word caption and a 75-word explanatory statement. The Attorney General must submit the initiative to the state Supreme Court for single-subject review and to ascertain that the ballot title and summary comply with requirements for clarity and common language. The court cannot rewrite the title, and if it disallows the title, all signatures gathered to date are invalidated and proponents must start over. The court's strict application of the single-subject rule since 1994 has resulted in a steep drop in the number of initiatives that appear on the ballot in Florida. This pre-election judicial review, mandatory for all initiatives in Florida, is the only instance of a mandatory pre-election judicial review among all 24 initiative states.

The timing of title and summary challenges in Arkansas and Florida is highly controversial, and most initiative proponents regard it as unfair. Initiative proponents are forced to circulate a petition with a title that may later be ruled invalid, thus disqualifying their initiative. Proponents may have spent large sums of money in the qualification phase, and thus are resentful of last-minute court rulings that remove their otherwise qualified measure from the ballot.

Case Study: Technical Challenges

Washington, D.C.

In Washington, D.C., a time period and process for technical challenges are built into the certification process, thereby reducing instances of post-election technical challenges. The Board of Elections and Ethics drafts for each proposed initiative measure a short title (not more than 15 words), a true and impartial summary statement (not more than 100 words), and the proper legislative form of the measure. These are formally adopted by the board at a public meeting, and the initiative sponsor must be notified of the exact language within five days of adoption. Also within five days of adoption, the board must publish the exact language in the *District of Columbia Register*. Any registered voter in the district who objects to the title, summary or legislative form may seek review in the Superior Court of the District of Columbia within 10 days of the publication of the language. The court is required to expedite consideration. If no review is sought during this time period, the title, summary and legislative form are deemed to be accepted by the board.

Single-subject challenges also are encouraged during the certification process in Washington, D.C. The board may refuse to accept an initiative measure submitted if it determines that the measure is not a proper subject of the initiative. When that occurs, the person submitting the measure has 10 days after the board's refusal to apply to the Superior Court of the District of Columbia to compel the board to accept the measure.

Other Ideas for Reform

Post-Election Court Challenges

The number of initiatives challenged post-election in the courts has risen steadily in recent decades. One study of initiatives passed in four states over a 40-year period found that about half the initiatives passed during that time were challenged in court and more than half of those challenged are held unconstitutional, at least in part.

Initiative proponents look to the courts routinely when they feel the initiative process itself is in jeopardy. For example, consider the suit pending over whether petitioners can gather signatures on U.S. Postal Service property (*Initiative & Referendum Institute vs. United States Postal Service* [U.S. District Court for the District of Columbia 1:00CV01246]). The suit seeks to overturn the Postal Service's regulation prohibiting citizens from collecting signatures on initiative petitions on postal property.

Opponents of initiatives look to the courts just as often as proponents, however. When they fail to achieve their political aim at the ballot box, they frequently take the fight to the courts.

Another reason initiatives often end up in court after they are passed is that they are technically flawed. Initiatives are drafted in private, often without the benefit of expert analysis from legislative bill drafters. They are not subject to committee hearings, where testimony may be offered both in support and in opposition to them. They do not go through the process of consideration and amendment by two bodies before their final approval. In summary, initiatives are not forced through the same process of dissection and refinement that a bill must endure before it becomes law. As a result, the initiatives that the public votes on often contain errors, unintended consequences, conflicting sections, or unconstitutional provisions.

Critics of the initiative system believe that post-election court challenges are dangerous to the U.S. system of government. Challenges anger citizens, who often may assume that an initiative would not have made it to the ballot if it were not constitutional, and they force judges to make political decisions that are more appropriately made by the legislature.

Oregon provides a recent example of how judicial involvement in the initiative process can rapidly grow. An initiative was recently challenged in Oregon on the grounds that it violated the state's single subject requirement. The state's Supreme Court agreed that it did, and declared the measure unconstitutional. That case spurred other single-subject challenges, most notably a successful challenge to the state's term limits law. Term limits proponents, angered by the fact that term limits were declared unconstitutional because they violated the single-subject rule, have vowed to search Oregon's initiative history and challenge as many as they can find on single-subject grounds, which could wreak havoc on Oregon's laws and its judicial system.

Recent reform proposals addressing the proliferation of post-election court challenges have been suggested in Nebraska and Washington. House Bill 1732 from Washington's 2001 legislative session would have formed a three-member ballot measure review committee. The Secretary of State would be permitted to request an opinion as to the constitutionality of any proposed initiative measure from this committee. After reviewing a measure, the committee would issue a report, including a summary of 100 words or less, stating its opinion on the measure's constitutionality. The summary would appear in the voter information pamphlet. A proponent dissatisfied with the committee's opinion would be permitted to petition a review by the state Supreme Court. The court would consider whether the committee's report is fair and reasonable, and may either permit the publication of the summary, enjoin its publication, or rewrite it. The committee's reports could not be cited or construed in other cases as decisions on constitutionality, and the judicial review provided for in this measure would not preclude any court from subsequent consideration of the constitutionality of a measure. Rather, the review process might give early warning to initiative proponents of potential problems in their proposal. At a bare minimum, the review process would simply generate more information for voters to consider as they cast their votes. The California Policy Seminar made a similar recommendation in 1991.

The Nebraska Legislature passed a similar proposal in the 1999-2000 biennium, but it was not approved by the governor. LB 729 would have permitted the Secretary of State to reject any petition that was constitutionally suspect. That would have enabled proponents to take it to court for an expedited hearing. Under this plan, the constitutionality of many initiative measures could be determined early in the process, before initiative proponents have spent large amounts of time and money in the signature-gathering and campaigning stages of the process.

Recent Legislative Action

Nine states introduced 59 bills regarding pre-circulation requirements—which include drafting measures, ballot titles, summaries and fiscal impact statements—between 1999 and 2002. Highlights include the following:

- In Oregon, the deadlines for the Secretary of State to send ballot title comments to the Attorney General, the time period for Attorney General to revise draft ballot title, and the deadline for a person seeking review of a ballot title have been modified.

- In Utah, title naming conventions were established for ballot propositions submitted to the voters, and the standard of review in writing and judicially reviewing initiative and referendum ballot titles was clarified.

- In 2002, Washington passed SB 6571, requiring that a fiscal impact statement be drafted by the Office of Financial Management for all initiatives that appear on the ballot, legislative alternatives to initiatives on the ballot, and referenda, including those referred to the ballot by the legislature. The new law requires the Secretary of State to make the statement available online and include it in the state voters' pamphlet.

- In 2000 and 2001, Colorado passed bills that require fiscal impact statements on all initiative measures and specify the content of the statements.

- A failed 2001 bill in Arizona would have created an eight-member Citizen Ballot Measure Committee and transferred the responsibility for drafting analyses of initiative proposals from the Legislative Council to the new committee. The committee members would have been appointed by the House and Senate majority and minority leadership.

5. The Signature Gathering Phase

Overview

Signature gathering is the most fundamental part of the initiative process, and the most thoroughly populist and grassroots part. The purpose of signature requirements is to demonstrate that an initiative has a certain level of public support before it goes to the ballot.

Statement of Organization

In some states, the campaign finance disclosure requirements do not take effect until a petition is qualified for the ballot. The task force believes that the money spent earlier in the process, particularly the money and sources of money spent on gathering signatures, is of equal importance to money spent on campaigning. Citizens should have access to information about who is circulating a petition before they decide to sign it.

> Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Fraud in the Signature Gathering Process

Paid vs. Volunteer Petitioners

Professional signature gathering has long been a part of initiative politics. Paid signature gatherers were common in both California and Oregon in the early 1900s. Banning paid signature gatherers, an early idea, was seen as a way to stop wealthy individuals or groups from buying their way onto the ballot. Ohio, South Dakota and Washington passed bans on paid signature gatherers in 1913 and 1914. Oregon passed a ban in 1935, Colorado in 1941, and Idaho and Nebraska in 1988. Until the 1980s,

Recommendations

Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Recommendation 5.2: States should provide for safeguards against fraud during the signature-gathering process. Safeguards should include:

A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that, to the best of the circulator's knowledge, the signatures are valid.
C. Requiring circulators to disclose whether they are paid or volunteer.

Recommendation 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Recommendation 5.5: States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

courts upheld bans on paid signature gatherers. That changed in 1988, when the U.S. Supreme Court invalidated Colorado's ban in the *Meyer vs. Grant*, 486 U.S. 414 (1988) decision.

Five states—Maine, Mississippi, North Dakota, Washington and Wyoming—tried to ban payment per signature, but to permit payment on a salary or hourly basis. All but North Dakota's and Wyoming's have been invalidated by courts.

Today, the vast majority of petition campaigns use paid circulators, who are paid between $1 and $3 per signature. Very few campaigns attempt to qualify an initiative petition with volunteer circulators, and even fewer do so successfully. Paid drives, on the other hand, are much more successful. A campaign that has adequate funds to pay circulators has a nearly 100 percent chance of qualifying for the ballot in many states.

The increase in reliance on paid circulators has increased the cost of qualifying an initiative. In California, it now costs more than $1 million. In Oregon, costs for qualifying ballot measures for the 2000 election ranged from $65,000 to $400,000, with most spending in the neighborhood of $100,000 to $150,000. Average costs in other states generally range between $70,000 and $100,000.

Oregon has tried a new idea for regulating paid circulators. The state defines paid circulators as employees (in other states they generally are defined as independent contractors), making them eligible for unemployment benefits. Signature collection firms now must pay payroll taxes and unemployment insurance premiums and must meet minimum wage requirements.

The U.S. Supreme Court's opinions on petition circulators have made the prevention of fraud in the signature gathering process very difficult for states. Since the 1988 *Meyer vs. Grant* decision invalidated state bans on paid signature gatherers, it has become more difficult to regulate the signature gathering process. The argument that payment for signatures promotes fraud has met with mixed reactions in courts around the country. A federal judge in North Dakota agreed, and upheld North Dakota's ban on payment-per-signature (hourly or salaried payments are permissible in North Dakota). Federal judges in Maine and Washington, however, disagreed, and found no evidence of fraud among paid signature gatherers. A more worthy argument that is less often cited is that prohibiting payment for signatures protects the integrity of the initiative process by encouraging grassroots efforts that can succeed on nothing more than popular support and discourages signature gathering efforts that can succeed only with large sums of money. Nevertheless, the U.S. Supreme Court has removed the ban on paid signature gatherers from initiative reformers' agendas.

Registered Voter and Residency Requirements

In 1999, the U.S. Supreme Court struck down a Colorado law stipulating that only Colorado registered voters could circulate initiative petitions in *Victoria Buckley vs. American Constitutional Law Foundation*, 119 S. Ct. 636 (1999). Colorado argued that it should be able to limit the ability to circulate petitions to those who are also qualified to vote on them. At least 13 other states were affected by *Buckley vs. ACLF* because they had similar laws. Other states, including Mississippi, North Dakota and Oklahoma, require that circulators be residents of the state. Many of the states that previously had registered voter requirements changed their laws to require that circulators be residents, including Arizona, California, Idaho, Maine, Missouri, Utah and Wyoming. This requirement has fared bet-

ter in the courts than the registered voter requirement, with federal courts upholding Maine's and Mississippi's residency requirements.

If states cannot ban paid signature gatherers and they cannot require that signature gatherers be registered voters in the state, what can they do to ensure the integrity of the petition process and protect it from fraud? They can enact laws that specifically address and prohibit clear instances of fraud in the petition process.

Recommendation 5.2: States should provide for safeguards against fraud during the signature-gathering process. Safeguards should include:

A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that, to the best of the circulator's knowledge, the signatures are valid.
C. Requiring circulators to disclose whether they are paid or volunteer.

At least 10 states prohibit the giving or accepting of money or anything else of value to sign or not sign a petition. Those states are:

Arizona	Mississippi
California	Nebraska
Colorado	Ohio
Idaho	Washington
Maine	Wyoming

Sixteen states currently require that petition circulators witness the placing of signatures on the petition, and that they sign an oath affirming that to the best of their knowledge, each signature is valid. Such an oath can discourage the kind of fraud some states have witnessed. For example, in 1998 in Arkansas, it was discovered that a circulator had forged several hundred signatures on a petition to do away with property taxes. Other circulators turned in petitions with signatures they had not witnessed, thus invalidating those signatures. The petition eventually was stricken from the ballot after numerous instances of fraud in the petitioning process were proven.

At least 10 states currently require circulators to disclose whether they are paid or volunteer, most often on the petition form itself.

Table 10. Paid/Volunteer Status Must be Disclosed

	Where Disclosed
Alaska	On the petition
Arizona	On the petition
Colorado	On a name tag
Idaho	On the petition
Missouri	Must file a form with the Secretary of State
Nebraska	On the petition
North Dakota	Disclosed on registration form filed with the Secretary of State
Ohio	On the Circulator's Compensation Statement (part of the petition)
Oregon	On the petition
Wyoming	On the petition

Source: National Conference of State Legislatures, February 2002

Circulation Periods

In most states, petitioners have a limited period of time during which to gather the requisite signatures. The limits range from 60 days (Massachusetts) to four years (Florida). In 17 of the 24 initiative states, circulators have a year or more to gather signatures. In Arkansas, Ohio and Utah, no time limits are set for circulating petitions. Table 11 summarizes circulation periods in the initiative states.

Table 11. Circulation Periods

	Circulation Period	Submission Deadline
Alaska	1 year	Prior to the date the Legislature convenes (January)
Arizona	2 years	120 days before the election
Arkansas	Unlimited	120 days before the election
California	150 days	150 days after issuance of official summary; will be placed on the ballot in the next election that is at least 131 days after it is submitted
Colorado	6 months	3 months before the election
Florida	4 years	91 days before the general election
Idaho	18 months or until April 30 in an election year, whichever occurs earlier	May 1 in the year an election on the initiative will be held, or 18 months from the date the petitioner receives the official ballot title from the Secretary of State, whichever is earlier
Illinois	2 years	
Maine	1 year	On or before the 50th day after the convening of the Legislature in first regular session; on or before the 25th day after the date of convening of the Legislature in the second regular session
Massachusetts	60 days to submit to legislature; 42 days if legislature fails to act	14 days before the first Wednesday in December
Michigan	180 days	Constitutional: 120 days before the election Statutory: 10 days before beginning of a legislative session
Mississippi	1 year	90 days before the first day of the legislative session
Missouri	18 months	6 months prior to the date of the next regular election
Montana	1 year	By the third Friday of the fourth month preceding the election
Nebraska	2 years	4 months prior to the general election
Nevada	Constitutional: 291 days Statutory: 316 days	Constitutional: third Tuesday in June of an even-numbered year Statutory: second Tuesday in November of an even-numbered year
North Dakota	1 year	90 days before the election
Ohio	Unlimited	Constitutional: 90 days prior to the general election Statutory: 10 days prior to legislative session
Oklahoma	90 days	60 days prior to the date of the next general election
Oregon	2 years	120 days prior to the general election
South Dakota	1 year	Constitutional: 1 year before the next general election Statutory: first Tuesday in May in a general election year
Utah	Unlimited	Before June 1
Washington	Direct: 6 months Indirect: 10 months	Direct: 4 months prior to the next state general election Indirect: 10 days before the regular session of the Legislature
Wyoming	18 months	Prior to the date the Legislature convenes for a regular session

Source: National Conference of State Legislatures, May 2002

Interestingly, longer circulation periods do not necessarily lead to an increased number of initiatives on the ballot. Some of the states with the longest circulation periods—such as Florida and Illinois—have very few measures on the ballot. Some states with the shortest circulation periods—such as California, Colorado and Washington—are among the states with the highest number of initiatives that reach the ballot. Providing more time for gathering signatures, therefore, should not lead to a flood of initiatives on the ballot.

The length of the circulation period is important to volunteer efforts, and increasing the time for gathering signatures may be beneficial. Volunteer efforts are time-consuming because they often are less well-organized and more often are subject to disruptions when volunteers fail to show up. Longer circulation periods clearly benefit volunteer petition drives.

Recommendations 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Crafting an appropriate limit on circulation periods is a delicate task. If the period is too short, volunteer efforts will be disadvantaged. However, if the period is too long, there is a risk that voters may have moved between the time they signed the petition and the time it is submitted for verification, thus resulting in a higher percentage of invalid signatures.

Signature Requirements

State signature requirements for ballot access vary widely. Signature requirements usually are based on a percentage of votes cast for a particular office—most often the office of governor—in the most recent election. In a few states, the requirement is based on total votes cast, total registered voters, or total state residents.

In most states that have both a statutory and constitutional initiative process, there is a higher signature threshold to qualify a constitutional initiative. The only exceptions are Colorado, Massachusetts and Nevada. The distinction exists because it is widely believed that amending the constitution should be more difficult than amending the statutes. Some reformers, however, argue that a more effective manner of achieving this goal would be to require a higher vote to approve constitutional initiatives than statutory initiatives. This argument is supported by the fact that the higher signature threshold for constitutional initiatives is rarely a barrier to achieving ballot status, provided proponents have ample funds to pay signature gatherers. Nevertheless, it is the belief of this task force that the sanctity of state constitutions demands that constitutional amendments be held to a higher standard of popular support than statutory initiatives, including signature thresholds for ballot access.

Recommendation 5.5 States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Percentage requirements for signatures on statutory initiatives range from a low of 2 percent of the resident population in North Dakota (12,844 for 2002 ballot access), to a high

of 15 percent of the total number of votes cast in the preceding election in Wyoming (33,253 signatures for 2002 ballot access). However, because Wyoming is a small population state, there are other states where the actual number of signatures that must be gathered is higher. The highest actual signature requirement for 2002 ballot access is California, where 419,260 signatures are required to place a statutory initiative on the 2002 ballot (equal to 5 percent of the votes cast for governor in the last election).

Percentage requirements for signatures on constitutional amendments range from a low of 3 percent of total votes cast for governor in Massachusetts (57,100 for 2002 ballot access), to a high of 15 percent of total votes cast for governor in Arizona (152,643 for 2002 ballot access) and Oklahoma (185,145 for 2002 ballot access). Once again, however, thanks to its large population, California has the highest total actual signature requirement for 2002 ballot access at 670,816 (equal to 8 percent of the votes cast for governor in the last election).

Geographic Distribution Requirements

Many initiative states are primarily rural, with a substantial proportion of their populations centered in a few urban areas. In states that follow this population pattern but that lack a geographic distribution requirement for signatures, it is not only possible but common for initiative proponents to gather all their signatures in the state's largest city. The voters in the largest city, therefore, may decide for the state as a whole what issues make the ballot and what issues do not. Such a system gives urban voters an unfair advantage over rural voters.

> Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Thirteen of the 24 initiative states currently require that signatures be gathered from around the state. Supporters of geographic distribution requirements say they are important because they force initiative proponents to demonstrate that their proposal has support statewide, not just among the citizens of the state's most populous region. Critics say geographic distribution requirements place an unfair burden on initiative proponents, since it is much more difficult to gather signatures in rural areas than it is in urban areas. They also claim that such requirements mean that fewer initiatives qualify for the ballot.

Polling data suggests that voters generally support the idea of requiring initiative proponents to gather their signatures from various parts of the state. In fact, as recently as 1998, voters in Wyoming approved of a legislative proposal to make that state's geographic distribution requirement even more restrictive. A February 1995 poll conducted by the City Club of Portland showed that Oregon voters also supported a geographic distribution requirement. The fact that they later rejected a 2000 constitutional amendment on this very issue may reflect their dissatisfaction with the stringency of that particular proposal, rather than a drop-off in support for the general idea of geographic distribution requirements.

It should be noted that Idaho's geographic distribution requirement was held unconstitutional by a U.S. District Court in December 2001. In addition to a total number of signatures equal to 6 percent of the state's registered voters at the time of the last general election, proponents had to gather signatures from 6 percent of the registered voters in 22 of the state's 44 counties. The decision currently is on appeal in the 9th U.S. Circuit of Appeals, and it is unclear at this time whether this decision, if upheld, would affect geo-

graphic distribution requirements in other states. The 9th Circuit includes Montana and Nevada, which also have geographic distribution requirements.

Tables 12 and 13 summarize the signature requirements for statutory and constitutional initiatives, including geographic distribution requirements.

Table 12. Signature Requirements—Statutory Initiatives

	Statutory Initiatives		
	Signatures	2002 Actual Requirement	Geographic Distribution
Alaska	10% of total votes cast in last general election	22,716	At least one signature by voters resident in each of at least 2/3 of 27 election districts
Arizona	10% of votes cast for governor in last election	101,762	None
Arkansas	8% of votes cast for governor in last election	56,481	Signatures from 4% of registered voters from at least 15 of 75 counties
California	5% of votes cast for governor in last election	419,260	None
Colorado	5% of votes cast for sec. state in last election	80,571	None
Florida	N/A		
Idaho	6% of qualified electors in previous election	43,685	6% of registered voters from each of 22 counties*
Illinois	N/A		
Maine	10% of votes cast for governor in last election	42,101	None
Massachusetts	3% of votes cast for governor in last election	57,100	No more than 25% of signatures may be from one county
Michigan	8% of votes cast for governor in last election	242,168	None
Mississippi	N/A		
Missouri	5% of votes cast for governor in last election	117,342	5% of votes cast for governor in last election from 6 of the 9 congressional districts
Montana	5% of qualified electors in state at large	20,510	At least 5% of voters in at least 34 of the 100 legislative districts
Nebraska	7% of registered voters at the filing deadline	75,969	5% of registered voters in 38 of the 93 counties
Nevada	10% of total votes cast in last general election	61,336	10% of total votes cast in the last general election from at least 13 of the 17 counties
North Dakota	2% of resident population of the state	12,844	None
Ohio	3% of votes cast for governor in last election	100,626	1.5% of total vote cast for governor in last election from 44 of the state's 88 counties
Oklahoma	8% of votes cast in last state election for the office receiving the highest number of votes	98,744	None
Oregon	6% of votes cast for governor in last election	66,786	None
South Dakota	5% of votes cast for governor in last election	13,010	None
Utah	Direct: 10% / Indirect: 5% of votes cast for governor in last election	Direct: 78,458 Indirect: 39,229	Direct: 10% / Indirect: 5% of votes cast in at least 20 of the counties
Washington	8% of votes cast for governor in last election	197,734	None
Wyoming	15% of total votes cast in last general election	33,253	15% of residents in at least 2/3 of the state's 23 counties

* Held unconstitutional by U.S. District Court in December 2001; pending appeal in the 9th U.S. Circuit Court of Appeals
Source: National Conference of State Legislatures, January 2002.

Table 13. Signature Requirements—Initiated Constitutional Amendments			
	Constitutional Initiatives		
	Signatures	2002 Actual Requirement	Geographic Distribution
Alaska	N/A		
Arizona	15% of votes cast for governor in last election	152,643	None
Arkansas	10% of votes cast for governor in last election	70,601	Signatures from 5% of registered voters from at least 15 of 75 counties
California	8% of votes cast for governor in last election	670,816	None
Colorado	5% of votes cast for sec. state in last election	80,571	None
Florida	8% of total votes cast statewide in last presidential election	488,722	8% in at least 12 of the state's 23 congressional districts
Idaho	N/A		
Illinois	8% of total votes cast for governor in previous election	268,693	None
Maine	N/A		
Massachusetts	3% of votes cast for governor in last election	57,100	No more than 25% of signatures may be from one county
Michigan	10% of votes cast for governor in last election	302,710	None
Mississippi	12% of votes cast for governor in last election	91,673	No more than 1/5 total signatures from one congressional district
Missouri	8% of votes cast for governor in last election	187,746	8% of votes cast for governor in last election from 6 of the 9 congressional districts
Montana	10% of qualified electors in state at large	41,020	At least 10% of voters in at least 40 of the 100 legislative districts
Nebraska	10% of registered voters at the filing deadline	108,527	5% of registered voters in 38 of the 93 counties
Nevada	10% of total votes cast in last general election	61,336	10% of total votes cast in the last general election from at least 13 of the 17 counties
North Dakota	4% of resident population of the state	25,688	None
Ohio	10% of votes cast for governor in last election	335,421	None
Oklahoma	15% of votes cast in last state election for the office receiving the highest number of votes	185,145	None
Oregon	8% of votes cast for governor in last election	89,018	None
South Dakota	10% of votes cast for governor in last election	26,019	None
Utah	N/A		
Washington	N/A		
Wyoming	N/A		

Source: National Conference of State Legislatures, January 2002

Verifying Signatures

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

States use various methods to verify the number of valid and correct signatures gathered on a petition, and vary in whether signatures are checked at the state or county/local level. In 15 states, verification is conducted by the state's chief election official. In nine states, it is done at the county level and forwarded to the appropriate state official.

The second major area of variation is whether validation is accomplished by counting or verifying each signature or by employing a random sampling formula. Ten states verify signatures using a random sampling method. It is most common in states that use a random sample method that at least 5 percent of the signatures gathered be verified. In Montana, county officials verify all names and signatures and then randomly select signatures to be checked against voter registration records.

North Dakota and Ohio are unique. Since North Dakota does not have voter registration, sponsors must collect signatures of people who legally reside in the state. The Secretary of State is responsible for conducting a representative sampling of signatures using postcards, phone calls and other methods to verify residency. In Ohio, signatures are presumed valid unless otherwise proven. Anyone may file with the board of elections challenging the validity of any signature(s). If a sponsor does not have enough signatures after filing the petition with the Secretary of State, the sponsor is allowed 10 additional days to collect the correct number of signatures.

The timeframe for verifying signatures averages about one month. Most states allow petitioners to observe the verification process. In Arkansas and Ohio, if a petition does not have the required number of valid signatures, an additional time period (30 days in Arkansas and 10 days in Ohio) is allowed to gather the remaining signatures. Most states, however, automatically disqualify a proposed initiative if it does not have enough valid signatures.

Table 14 summarizes the various methods of verifying signatures on initiative petitions.

Table 14. Method of Signature Verification

	Method of Signature Verification
Alaska	Actual; signatures are verified by Lt. Governor until correct number is met
Arizona	Random; 5% of total number of signatures must be verified by county recorders with equal chances for any signature to be chosen
Arkansas	Actual; signatures are verified by the Secretary of State's office, which may contract with various county clerks for assistance
California	Random; Secretary of State verifies total number of signatures, county election officials then conduct random sampling; required to verify 500 signatures or 3% of signatures filed, whichever is greater
Colorado	Random, at least 5% or 4,000 signatures must be verified by Secretary of State
Florida	Actual; every signature is checked by Supervisor of Elections of each county; sponsor must pay $0.10 for each signature checked or the actual cost of checking the signatures to supervisor at the time the petition is submitted; if the sponsor is unable to pay, a statement of undue burden given under oath must be submitted; a sponsor using paid signature gatherers may not submit statement
Idaho	Actual; county clerk verifies each signature, then files petition with Secretary of State
Illinois	Random and actual; state Board of Elections conducts random sampling of signatures and then transmits list to county election officials for individual verification; sampling must include: 10% of the signatures if 5,010 or more signatures are involved; or 500 signatures if more than 500 but less than 5,010 signatures are involved; or all signatures if 500 or less signatures are involved
Maine	Actual; Secretary of State verifies every signature

Table 14. Method of Signature Verification (continued)

	Method of Signature Verification
Massachusetts	Actual; signatures must be verified by a majority (at least three) of the local registrars or election commissioners in the city or town in which the signatures were collected
Michigan	Actual; the board of state canvassers verifies the correct number of signatures and that each signer is a qualified registered voter; the qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers
Mississippi	Actual; county Circuit Clerk of each county where the petition was circulated verifies every signature, then submits the petition to the Secretary of State
Missouri	Actual or random (at discretion of Secretary of State); if random sampling is used, the method is determined by the Secretary of State and shall include examination of 5% of signatures collected
Montana	Actual and random; county official verifies that each signer is a registered voter and also randomly selects signatures to check against voter registration records
Nebraska	Actual; local election officials verify all signatures using voter registration records; Secretary of State double checks total number of valid signatures
Nevada	Actual and random; county clerks/registrars verify the total number of signatures and forward the number to the Secretary of State, who verifies the raw count and, if the total number of signatures is correct, notifies county clerks/registrars to begin verifying each signature; if there are greater than or equal to 500 signatures, clerk/registrar conducts a random sample of 500 or 5% of signatures
North Dakota	Random; since N.D. does not have voter registration, sponsor must collect signatures of residents; Secretary of State then conducts a representative sampling of signatures using post-cards, phone calls, or other methods to verify signatures
Ohio	Signatures are presumed to be valid unless proved otherwise; if more signatures are needed, sponsors are allowed 10 additional days to file signatures
Oklahoma	Actual; Secretary of State counts and verifies every signature
Oregon	Random; Election Division verifies the number of signatures and randomly selects (using a computer-generated report) samples of signatures to send to county election officials for individual verification
South Dakota	Actual; every signature is verified until the minimum number of signatures is reached
Utah	Actual; county clerks verify every signature
Washington	Actual or random (at discretion of Secretary of State); Secretary of State verifies each signature unless the number of signatures filed is substantially in excess of the minimum needed, in which case the Secretary of State may use a random sampling process to verify signatures
Wyoming	Actual; Secretary of State verifies every signature

Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

One suggestion for reform is to decrease the number of signatures needed for qualification. This would reduce the amount of time and money needed to both gather the signatures and to verify them. The task force does not support this reform but, rather, believes that the demonstration of a substantial degree of popular support, represented by signatures on a petition, is an important step in gaining ballot access.

Another suggested reform is to allow petitioners to turn in signatures periodically throughout the circulation phase. This would allow proponents to know how many signatures they still need to gather, and it would help to alleviate the burden of counting a large volume of signatures at one time.

Perhaps the most intriguing suggestion for reforming the signature-gathering process is the establishment of a bifurcated system for signature gathering, such that each signature gathered by a volunteer is worth more than a signature gathered by a paid circulator. Such a

plan would provide an incentive for initiative campaigns to use volunteer circulators, but would not penalize efforts that use paid circulators. An initiative reform task force in Nebraska considered such a plan in 1995, but did not carry it forward due to concerns about its constitutionality. Disagreement exists among scholars as to whether a bifurcated system would pass constitutional muster, and it will be impossible to know for sure until a state adopts it.

Recent Legislative Action

Changing signature requirements, filing deadlines, and regulations on petition circulators were among the most common topics of initiative reform legislation between 1999 and 2002.

- Six states considered changing the filing deadline for initiative petitions. Oregon placed a measure on the March 2000 ballot to change the filing deadline from four months to five months before the election, effectively shortening the circulation period by one month but providing more time for signature verification. Voters passed the measure.

- Thirteen states considered additional regulation of petition circulators. Arizona, California and Idaho established new requirements that petition circulators be state residents. Oregon passed a measure requiring that paid petitioners be identified as such.

- Three states considered bills designed to combat signature fraud.

- Thirteen states looked at changing the number of signatures required to qualify a ballot initiative. None enacted a change.

6. VOTER EDUCATION

Recommendations

Recommendation 6.1: States should provide to the public a manual describing the initiative and referendum process.

Recommendation 6.2: States should encourage public education and discussion about measures on the ballot.

Recommendation 6.3: States should produce and distribute a voter information pamphlet containing information on each measure certified for the ballot.

Recommendation 6.4: In addition to a printed voter information pamphlet, states should consider alternative methods of providing information on ballot measures, such as the Internet, video and audio tapes, toll-free phone numbers, and publication in newspapers.

Overview

An important part of the initiative process is educating voters. Most states prepare voter information pamphlets and post election information on the secretary of state's Web page. In addition, proponents and opponents of initiatives put together their own education campaigns to advertise for and inform voters about initiatives that will appear on the ballot.

Manual on the Initiative Process

Providing citizens with information about how to use the initiative process and the rules and laws that apply is a valuable voter education effort. It helps citizens organize their efforts early in the process and also may help to reduce problems and disputes at later stages of the process.

> Recommendation 6.1: States should provide to the public a manual describing the initiative and referendum process.

This recommendation was also made by the Nebraska Petition Process Task Force in 1995.

Public Education and Discussion of Initiative Measures

Clearly, one of the most serious criticisms of the initiative process is that voters do not always fully understand the contents of the initiatives on which they are asked to vote. This is due partly to the increasing number of measures on the ballot, resulting in such a large volume of information that it is not reasonable to expect all voters to thoroughly study and understand all issues. Furthermore, many initiative measures are lengthy and complicated and often may be so poorly drafted as to be incomprehensible.

> Recommendation 6.2: States should encourage public education and discussion about measures on the ballot.

Recommendation 6.4: In addition to a printed voter information pamphlet, states should consider alternative methods of providing information on ballot measures, such as the Internet, video and audio tapes, toll-free phone numbers, and publication in newspapers.

States have a responsibility to educate voters about measures on the ballot. Better educating voters will lead to improved decision making and, ultimately, to better policy making in the state. In addition to producing a voter information pamphlet (discussed in detail below), states should explore new and innovative ways of conveying information to voters. This might include posting information on the Internet, providing chat rooms for discussion and debate of initiative proposals, holding public hearings and town hall meetings, and providing debates and information on public access television. Each of these venues gives proponents and opponents an opportunity to speak and also provides an event that the media can cover. Media coverage will extend the debate and informational content of state-sponsored voter education efforts to an even broader audience.

Other individuals, commissions and task forces that have recommended public and/or legislative hearings on initiatives include:

M. Dane Waters, I&R Institute (in testimony before the task force on Dec. 8, 2001),
California League of Women Voters (1999),
Nebraska Petition Process Task Force (1995),
Citizens' Commission on Ballot Initiatives (California, 1994), and
California Commission on Campaign Financing (1992).

Case Study: Public Hearings on Initiatives

Mississippi

Mississippi holds public hearings in each congressional district for every initiative measure that is certified for the ballot. At the hearing, a representative from the Secretary of State's office summarizes the measure for the audience, and the proponents and opponents have the opportunity to speak about the initiative. Although public hearings clearly provide a useful forum for debate, discussion and voter education, their value must be weighed in contrast with their cost. In some states—such as Nebraska—that hold public hearings for initiatives, the hearings rarely draw significant participation or media coverage.

Voter Information Pamphlets

One of the most commonly used tools for voter education is the voter information pamphlet. These pamphlets provide a great deal of information about ballot issues—and sometimes about candidates, as well. Voters may peruse the pamphlet at their leisure, and may even take it with them into the voting booth. Clearly, voter information pamphlets are a worthy voter education effort.

Recommendation 6.3: States should produce and distribute a voter information pamphlet containing information on each measure certified for the ballot.

Voter information pamphlets should be user-friendly. They should group related measures, and should use charts and other graphic elements to facilitate comparisons. The information provided for each ballot measure should include the ballot title, an impartial summary, fiscal analysis, arguments for and against each measure, and the text of the proposed law. Some states also include in their ballot pamphlets statements that point out conflicting measures, explaining what will happen if both are adopted. Other states' ballot pamphlets list programs or services that a measure containing an appropriation would take money away from.

Voter information pamphlets are required by statute in 14 of the initiative states. In most states, the pamphlets are printed by the state's chief election official and generally include the text of the measure, an impartial analysis or summary, a fiscal impact statement, and arguments for and against the proposed initiative. In Colorado, the Legislative Council is responsible for writing and assembling the pamphlet, which includes a detailed, impartial analysis of each proposed measure and arguments for and against. Table 15 contains detailed information about the production and contents of voter information pamphlets in the initiative states.

Table 15. Voter Information Pamphlets

	Who Prepares and Distributes	Contents of Pamphlet
Alaska	Lt. Governor	Full text Ballot title and summary from petition Neutral summary prepared by Legislative Affairs Agency Statements for and against (limited to 500 words each) *Also published in full on Lt. Governor's homepage www.gov.state.ak.us/ltgov/elections/homepage.html
Arizona	Secretary of State prepares; county boards of supervisors distribute	Title Text Arguments for and against Analysis (prepared by Legislative Council). Summary of fiscal impact statement *Also published in full on Secretary of State's homepage http://www.sosaz.com/election
Arkansas	N/A	Text of measures published online at http://sosweb.state.ar.us/elect.html
California	Secretary of State	Text Copy of specific constitutional or statutory provision that would be repealed or revised Arguments and rebuttals for and against Analysis (prepared by Legislative Analyst) Fiscal impact estimate Art work, graphics and other materials that the Secretary of State determines will make pamphlet easier to understand *Also published in full on Secretary of State's homepage http://www.ss.ca.gov/elections/elections.htm

Table 15. Voter Information Pamphlets (continued)		
	Who Prepares and Distributes	Contents of Pamphlet
Colorado	Legislative Council	Title Text Impartial analysis, including description of major provisions of proposal and comments on proposal's application and effect (Legislative Council prepares) Summary of major arguments for and against (Legislative Council prepares) Fiscal impact statement *Also published on the Legislative Council's Web page, and hyperlinked from the Secretary of State's page http://www.sos.state.co.us/pubs/elections/main.htm
Florida	Up to individual counties to prepare if they choose	Varies from county to county Information also available online at http://election.dos.state.fl.us/initiatives/initiativelist.asp
Idaho	Secretary of State	Title Text Ballot number Arguments and rebuttals for and against *Also published in full on Secretary of State's homepage http://www.idsos.state.id.us/elect/eleindex.htm
Illinois	None	N/A
Maine	Secretary of State	Title Text Summary of intent and content Explanation of significance of a "yes" or "no" vote *Text of measures published in full on Secretary of State's Web site http://www.state.me.us/sos/cec/elec/
Massachusetts	Secretary of Commonwealth	Title Text Summary prepared by Attorney General Fair and neutral one-sentence statement of the effects of a "yes" or "no" vote (prepared by Attorney General and Secretary of Commonwealth) Arguments for and against. *Also published in full at Secretary of Commonwealth's homepage www.state.ma.us/sec/ele/eleidx.htm
Michigan	N/A	Text of each proposal is published online at www.sos.state.mi.us/election/elecadmin/index.html
Mississippi	Secretary of State	Text Ballot title (Attorney General drafts) Ballot summary (Attorney General drafts) 300-word argument for and 300-word argument against Fiscal analysis (drafted by Legislature's chief budget officer) *Text of proposals are published online at www.sos.state.ms.us/elections/elections.html
Missouri	Secretary of State	Text "Plain language" explanation Fiscal impact statement (State Auditor drafts) *Also published in one newspaper in each county and online at www.sos.state.mo.us

Table 15. Voter Information Pamphlets (continued)		
	Who Prepares and Distributes	Contents of Pamphlet
Montana	Secretary of State prepares; county officials distribute	Title Text Impartial summary prepared by Secretary of State Fiscal impact estimate Proponent and opponent arguments and rebuttals *Also published online at sos.state.mt.us/css/ELB/Contents.asp
Nebraska	Secretary of State prepares; county clerks distribute	Title Text Arguments for and against (Secretary of State drafts) General Election Voter Information Pamphlet published on Secretary of State's Web site at www.sos.state.ne.us/elections/election.htm
Nevada	Secretary of State publishes; county clerks distribute	Title Text Summary Arguments for and against Fiscal impact statement *Also published online by Secretary of State at sos.state.nv.us/nvelection/
North Dakota	N/A	Text of proposals are published online at www.state.nd.us/sec/Elections/Elections.htm
Ohio	Secretary of State	Ballot title Impartial statement (prepared by Secretary of State) Explanation (prepared by Ohio Ballot Board) Arguments for and against Information also available online at www.state.oh.us/sos/
Oklahoma	House Research, Legal and Fiscal Divisions	Ballot title Background Text
Oregon	Secretary of State	Title Text Fiscal impact estimate Explanatory statement (written by committee of five citizens—two members from opponents selected by Secretary of State, two members appointed by proponent's committee, fifth member selected by other four) Arguments for and against *Also published in full on Secretary of State's homepage at www.sos.state.or.us/elections/other.info/im.htm
South Dakota	Secretary of State	Ballot title Text Explanation and effect (prepared by Attorney General) Arguments pro and con *Also published in full on Secretary of State's homepage at www.state.sd.us/sos/sos.htm
Utah	Lt. Governor	Ballot number Ballot title Final vote cast by Legislature if it is a measure submitted by the Legislature Fiscal impact estimate Impartial analysis (prepared by Office of Legislative Research and General Counsel) Arguments and rebuttals in favor of and against Text *Also published online at elections.utah.gov/

Table 15. Voter Information Pamphlets (continued)		
	Who Prepares and Distributes	Contents of Pamphlet
Washington	Secretary of State	Ballot number Official title Brief statement of law as it presently exists Brief statement explaining effect of proposed law (Attorney General prepares) Total votes for and against by House and Senate if measure has been passed by Legislature Arguments for and against Names and addresses of those writing arguments Full text of each measure *Also published in full on Secretary of State's homepage at www.secstate.wa.gov/elections/
Wyoming	N/A	Text of proposals published in full online at soswy.state.wy.us/election/election.htm
Source: National Conference of State Legislatures, May 2002.		

Costs associated with the production, printing and distribution of voter information pamphlets vary from year to year (see table 16). Much of the cost depends upon how many pages are in the pamphlet, whether there is a need to print a supplemental ballot pamphlet (sometimes the case in California), and whether the pamphlet must be available in languages other than English.

Table 16. Costs of Voter Information Pamphlets (Selected States)				
	Printing	Postage	Total Printed/Mailed	Sent to
Arizona (00)	$443,376	$190,000	1.3 million/1.1 million	Every registered voter household; county offices
California (02)*	$4.3 million	$2.7 million	12.8 million/10.9 million	See summary
Colorado (00)	$283,000	$192,000	1.6 million/1.6 million	Every registered voter household; county offices
Colorado (01)	$96,000	$209,000	1.6 million/1.6 million	Every registered voter household; county offices
Nebraska (02)	$165 to $250	$335 to $750	500/500	Each county office
Oregon (00)	$1.9 million	$870,417	1.6 million/1.6 million	Every residential household
* California amounts are per election (they have initiatives in both the primary and general elections) Source: National Conference of State Legislatures, April 2002				

Each state requires the inclusion of different material, such as title, summary, and text of measures; arguments pro and con; and candidate information. In Nebraska, for instance, the ballot pamphlet contains information only about measures—candidates are not included. In Oregon, information about both measures and candidates is included, as well as voter registration materials (which qualified the pamphlet for nonprofit postage status and saved the state $750,000 in postage). The Oregon ballot pamphlet for the November 2000 election comprised two volumes and more than 400 pages.

Postage costs are determined by state requirements for the distribution of pamphlets. The pamphlet is mailed only to county offices in Nebraska. In Colorado, it is mailed to each registered voter household. California also mails a pamphlet to each registered voter household, and to all city election officials, each member of the Legislature, the proponents of each ballot measure, public libraries, high schools, and institutions of higher learning.

In Colorado and Nebraska, the text and title of each measure also must be published in a newspaper. This is a significant expense in Nebraska, where the publication cost per measure is $75,000.

Arizona, California and Colorado are required to print voter information pamphlets in languages other than English. California currently prints in five languages in addition to English, and Colorado and Arizona in two additional languages. Translation costs in Arizona for the November 2000 election were $20,000, which included audio tapes in Navajo. In Colorado, translation costs for 2000 were $25,000. California directly mails 278,519 translated versions of the voter information guide.

Virtually every commission that has studied the initiative process has recommended improved voter information pamphlets. Some of the specific recommendations include the following:

- Analyses of initiative measures should be written for the reading level of the average citizen (California League of Women Voters, 1999).
- The ballot pamphlet should clearly indicate the effect of a "yes" vote and a "no" vote (California League of Women Voters, 1999; Citizens' Commission on Ballot Initiatives, California, 1994).
- Related initiatives should be grouped together in the ballot pamphlet, and comparison charts should be used to facilitate voter comparison of similarities and differences (Citizens' Commission on Ballot Initiatives, California, 1994).
- The state should provide the citizens with readily accessible, in-depth information regarding the various issues surrounding each proposed constitutional amendment (Florida's Citizen Initiative Process, November 1994).

Case Study: Voter Information Pamphlets

Oregon

Oregon charges a fee of $500 for the submission of arguments for or against initiative measures to be printed in the voters' pamphlet. This helps fund the printing and postage costs associated with the pamphlet. Note that it is possible to bypass the $500 fee by submitting a petition bearing the signatures of 1,000 people who are eligible to vote on the measure.

Oregon also has an innovative manner of drafting the explanatory statement that is printed in the voters' pamphlet with each measure. A committee is created, made up of the following:

- Two people appointed by the chief proponents (in the case of a legislative referendum, one person is appointed by the president of the Senate and one by the speaker of the House)
- Two opponents are appointed by the Secretary of State

- A fifth member, selected by the two proponent and two opponent members of the committee

The committee prepares a simple, impartial and understandable explanatory statement of no more than 500 words. The statement must be approved by at least three members of the committee.

The Secretary of State holds a public hearing to receive comments and suggested changes to the explanatory statement. The committee considers testimony at the hearing, and also considers written suggestions and comments, and issues a final explanatory statement no later than 90 days before the election. If the committee fails to issue a statement by the deadline, a statement drafted by the Legislative Counsel Committee is used instead. Any person who offered testimony at the public hearing may petition the Oregon Supreme Court to seek a different explanatory statement.

Voter Education on the Internet

All states except two provide online information about measures on the ballot and other initiative information. It also is becoming more common for states to list initiatives that were put on the ballot in past years and the outcome of each. Many states publish the voter information pamphlet in full online, including the title and text of each measure and arguments and rebuttals for and against the measure, an impartial summary of the measure, and a fiscal impact estimate.

The Media's Role in Voter Education

Scholarly research has shown that most people get their information about election issues from friends, family, special interest groups with which they identify, and the media. So, while voter information pamphlets printed by the state offer the most comprehensive and objective information, paid advertising and news media coverage of campaigns may have an equal or even stronger influence on voters. Others argue that the quality of the information available to voters is directly related to the integrity of the initiative process. Therefore, less comprehensive, shorter, purposefully inflammatory and potentially exaggerated media sources of election information could pose a threat to the initiative process.

Finally, some people argue that the use of media sources to educate voters unnecessarily increases the costs of running an initiative campaign. The process no longer is grassroots in nature but is, rather, a high-powered advertising campaign. Also, without disclosure requirements, it may be unclear to voters who is behind or sponsoring the advertising, leading to biased or only partially informed voter opinions.

Whatever one believes about the value and influence of paid campaign advertisements, however, the news media bears a responsibility to provide adequate and balanced coverage of initiative proposals.

Other Ideas for Reform

Some reform advocates have suggested that a list of individual and organizational endorsements included in the voter information pamphlet would be useful to voters, since they often use such cues to make their decisions about ballot measures. The Citizens' Commis-

sion on Ballot Initiatives (California, 1994) recommended this reform. Listing the position of legislators and the governor also has been suggested, for the same reason.

Recent Legislative Action

During the period of 1999 through 2002, legislatures in 11 states considered 39 bills addressing voter education on initiatives.

- Montana passed a bill that clarifies the contents of arguments prepared on ballot measures for inclusion in the voter information pamphlet.

- At the November 2002 election, Florida voters will decide if they want to add language to the state's constitution requiring the Legislature to draft a statute to require economic impact estimates on initiative constitutional amendments. Presently, Florida has no requirement for fiscal analysis of constitutional amendments.

7. Financial Disclosure

Overview

The role of money in the initiative process has grown dramatically during the past decade. Although large contributions to initiative campaigns are not new and date to the turn of the last century, they are even larger and more common today than ever before. The I&R Institute reported in 1998 that issue committees nationwide spent almost $400 million to support and oppose ballot measures. California led the way in 1998. According to the secretary of state, California committees spent just under $193 million to support and oppose the 12 general election ballot measures. Combined spending for 214 statewide and legislative candidates in the 1998 general election totaled just under $136 million for the general election, or about 70 percent of the spending on ballot measures.

Recommendations

Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.

Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.

Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.

Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

Even more concerning than the extraordinary amounts of money raised and spent in initiative campaigns is the fact that such large sums of money come from so few sources. Large contributions overwhelmingly dominate initiative campaigns, and small, grassroots contributions make up a small percentage of the total money spent. Of course, whether that is a problem in and of itself is debatable; nevertheless, voters deserve to know who is funding initiative campaigns. If a measure qualifies for the ballot because one or two wealthy individuals or corporations underwrote the costs, voters should be able to consider that fact as they decide how to vote on the measure.

Unlike candidate campaigns in most states, in which contributions are limited, it is not uncommon for large contributions from a small handful of contributors to fund an initiative, from the drafting and signature-gathering phases through the campaign. A series of U.S. Supreme Court rulings, *Buckley vs. Valeo*, 424 U.S. 1 (1976), *National Bank of Boston vs. Bellotti*, 435 U.S. 1 (1978), and *Citizens Against Rent Control vs. City of Berkeley*, 454 U.S. 290 (1981) have clearly established the Court's view that limiting contributions and expenditures in initiative campaigns is an impermissible violation of First Amendment rights. The rationale behind the Court's rulings is that, although it is possible that a candidate could be corrupted by large contributions, it is impossible to corrupt an issue.

In spite of the Court's reluctance to limit money in initiative campaigns, voters have consistently supported the idea. About half the states have at some time in their history attempted to limit spending in initiative campaigns, and voters have supported spending restrictions on initiative campaigns in at least two states—California and Alaska. Such limits have failed to stand up to judicial scrutiny, however.

Initiative Financial Disclosure Requirements

With contribution and expenditure limits out of the question, states are left with only one avenue of regulating money in initiative campaigns: disclosure. States have a responsibility to ensure that voters receive high-quality, transparent information about the sponsorship and financial support of initiative proponents and opponents. Such information not only minimizes abuse and manipulation of the initiative process, but also provides voters with key tools necessary for deciphering the sometimes veiled motives of initiative proponents. Voters cannot make a fully informed decision without campaign finance information about initiatives.

> Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.
>
> Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.
>
> Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.
>
> Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

The following commissions, individuals and organizations have recommended increasing disclosure requirements for initiative supporters and opponents:

Speaker's Commission on the California Initiative Process (2002),
David Broder, *Washington Post* (in testimony before the task force on Dec. 7, 2001),
California League of Women Voters (1999),
City Club of Portland, Oregon (1996),
Citizens' Commission on Ballot Initiatives (California, 1994),
Sacramento Bee (1994), and
Los Angeles Times (1990).

States use disclosure requirements in various phases of the initiative campaign. In some states, sponsors must disclose the amount of money they pay to petition circulators. In most states, initiative campaign committees are required to disclose their contributions and expenditures. They also are often required to disclose the names of contributors who give more than a threshold amount. A few states also require that initiative committees

identify out-of-state contributors, and at least 11 states require reporting by people or groups that make independent expenditures in support of or opposition to an initiative. Presently, no state requires that expenditures be reported for pre-certification activities, such as polling and drafting.

Every initiative state requires some degree of disclosure of contributions and expenditures by initiative campaigns; states vary in the degree of detail required in such reports and the frequency of reporting. In many states, the information is posted for the public on a Web site (usually the secretary of state's).

Effectiveness of Initiative Campaign Spending

Recent scholarly research suggests that high-spending campaigns often are no more successful in passing an initiative than are low-spending campaigns. Money is instrumental in changing voter opinion, however, when it is spent in opposition to a measure. Research suggests that high spending by opponents can be effective in defeating initiatives by creating a climate of confusion and uncertainty, under which most voters vote "no."

Recent Legislative Action

There has been significant legislative activity in the area of initiative campaign finance reform, as states scramble to equalize the disclosure requirements for initiative campaigns with those imposed on candidate campaigns. During the period of 1999 through 2002, legislatures in 15 states considered 34 bills addressing the issue of money in initiative campaigns. Highlights include the following.

- In 2001, Arizona passed HB 2389, requiring that committees that support or oppose ballot measures register before distributing campaign literature or running advertisements, that literature and ads disclose the political committee that funds them, and that ballot measure committees report contributions of $10,000 or more within 24 hours of receiving them.

- Montana passed HB 468 in 1999, requiring the people who employ paid signature gatherers to file financial disclosure reports. The report must include the amount they pay to each signature gatherer. Utah also passed a similar measure in 1999.

- In 2001, North Dakota passed a pair of bills that tightened financial disclosure requirements for petition sponsors and extended the requirements for last-minute contributions to initiative campaigns to include contributions from political parties to initiative campaigns.

- Oregon passed a bill in 2001 that added a new report requirement prior to the May primary, and up to two additional reports if aggregate contributions or expenditures exceed $2,000. Under prior law, proponents had to file just one report two weeks after the July deadline for turning in signatures.

- A 1999 bill passed in Arkansas requires that the use of state funds to support or oppose a ballot measure be reported to the Legislative Council if the expenditure exceeds $100.

- A bill pending in Massachusetts would test the U.S. Supreme Court's ruling that prohibited limiting contributions to initiative campaigns. HB 3862 proposes limiting to $100 contributions made for the promotion or defeat of ballot questions.

- A bill passed in 2002 in Arizona voids any signatures gathered before the proponents filed a statement of organization. It also requires that committees include their name, the serial number for the petition, and their support or opposition of a measure in their statement of organization. The bill is SB 1285.

- A failed bill in Oklahoma would have swept initiative campaigns into the existing campaign finance disclosure requirements by changing the definitions of "contribution" and "expenditure" to include any communication that clearly advocates the passage or defeat of a ballot measure.

8. Voting on Initiatives

Overview

In most states, present law permits the passage of an initiated law or constitutional amendment with a simple majority vote. Some states have implemented higher vote standards in an effort to ensure that initiatives truly have popular support before they are enacted.

Recommendations

Recommendation 8.1: States should allow initiatives only on general election ballots.

Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

When Initiatives Can Appear on the Ballot

In a handful of states, initiatives may appear on primary or special election ballots. Alaska, California, North Dakota and Oklahoma permit initiatives on primary and special election ballots. Six states also permit initiatives on odd-year ballots: Colorado (only revenue measures), Maine, Mississippi (note, however, that Mississippi's legislative elections also are held in odd years), Ohio, Oklahoma and Washington. Voter turnout typically is significantly lower at primary, odd-year and special elections than at regular general elections. When initiatives appear on those ballots, it means a small percentage of registered voters are permitted to dictate policy for the majority. It is preferable that initiatives be voted on by as many people as possible.

> Recommendation 8.1: States should allow initiatives only on general election ballots.

This reform also was recommended by the California League of Women Voters in 1999, and the California Constitution Revision Commission in 1996.

Supermajority Vote Requirements for Constitutional Amendments

Most states require a simple majority vote to pass an initiative measure, whether statutory or constitutional in nature. By contrast, a supermajority vote of the legislature is necessary in almost all states to refer to the voters a measure to amend the constitution. All states except Delaware also require a vote of the people to pass a constitutional amendment. Supermajorities are intended to prevent a "tyranny of the minority," and also encourage

deliberation and compromise as proponents attempt to gather enough votes to reach a supermajority. Supermajorities in the legislature often are required for constitutional amendments because of the belief that constitutions should not be amended without careful deliberation. Many states also require a supermajority vote of the legislature to increase taxes.

In most states, however, the initiative constitutional amendment process is not subject to the same supermajority vote requirement as the legislature. Some experts question why supermajorities are required of the legislature but not of the people. They point out that the initiative process lacks checks found in the legislature that promote compromise and consensus and suggest that a supermajority vote requirement might help to prevent the passage of initiatives that are supported only by a narrow majority.

> Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Requiring a supermajority vote to amend the constitution also was recommended by the City Club of Portland (1996).

Wyoming's supermajority requirement was challenged in 1997 by the proponents of an initiative that received a simple majority but failed to reach the supermajority requirement (*Brady vs. Ohman*, 105 F.3d 726 (1998)). The 10th Circuit Court of Appeals rejected the challenge and wrote that Wyoming had the right to prevent "... abuse of the initiated process and make it difficult for a relatively small special-interest group to enact its views into law." The case was appealed to the U.S. Supreme Court, which upheld the Circuit Court ruling.

According to Richard Ellis in *Democratic Delusions: The Initiative Process in America*, the effect of a supermajority passage requirement would have dramatic consequences. He analyzed the passage rates of initiatives in the five most active initiative states—Arizona, California, Colorado, Oregon and Washington—between 1980 and 2000, and found that an average of 60 percent of the initiatives on the ballot would have passed under a 55 percent supermajority requirement, 45 percent under a three-fifths requirement, and only 20 percent under a two-thirds requirement (pp. 128-9).

Table 17 summarizes supermajority requirements for passing initiative measures.

Table 17. Supermajority Initiative Passage Requirements

	Passage Requirement	Applies to
Florida	Any measure imposing a tax or fee not in place in November 1994 must receive a 2/3 vote in order to pass	Constitutional amendments
Illinois	Passage by 3/5 of those voting on the measure, or a majority of those voting in the election	Constitutional amendments
Massachusetts	Majority vote, provided that the total number of votes cast on the initiative equals at least 30% of the total votes cast in the election	Statutory initiatives and constitutional amendments
Mississippi	Majority vote, provided that the total number of votes cast on the initiative equals at least 40% of the total votes cast in the election.	Constitutional amendments

Table 17. Supermajority Initiative Passage Requirements (continued)		
	Passage Requirement	Applies to
Nebraska	Majority vote, provided that the total number of votes cast on the initiative equals at least 35% of the total votes cast in the election	Statutory initiatives and constitutional amendments
Nevada	An initiative constitutional amendment must receive a majority vote in two successive general elections in order to pass	Constitutional amendments
Oregon	Any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action must be approved by at least the same percentage of voters specified in the proposed voting requirement	Statutory initiatives
Washington	Majority vote, provided that the vote cast upon the measure equals at least one-third of the total votes cast at such election	Statutory initiatives
Wyoming	Majority vote, provided that an amount in excess of 50% of those voting in the preceding general election must cast votes on an initiative or the initiative fails	Statutory initiatives

Source: National Conference of State Legislatures, January 2002

Special Vote Requirements

In Oregon, any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action must be approved by at least the same percentage of voters specified in the proposed voting requirement. For instance, if an initiative proposes that all future tax increases must receive a 60 percent supermajority to pass, then that same initiative also must receive a 60 percent supermajority to pass. The Citizens' Commission on Ballot Initiatives (California, 1994) recommended this reform for California.

> Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

In many states, legislatures must assemble a supermajority vote to pass certain types of statutory measures, in particular tax and fee increases. Such requirements are imposed because legislators and citizens feel that certain sections of law deserve special protection, and should not be easily or hastily changed. That assumption should extend to the initiative process as well.

> Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

A similar reform was proposed by the California Policy Seminar in 1991.

Case Study: Passage and Ratification of Constitutional Amendments

Nevada

Nevada's passage requirement for constitutional amendments has received attention recently. Since 1962, Nevada has required that a constitutional amendment be passed by a majority of the voters in two successive general elections. This is not an uncommon requirement to be placed on legislatures—Nevada requires its own Legislature to pass a constitutional amendment in two consecutive sessions before putting it on the ballot, as does Massachusetts. Ten other states also require the legislature to pass an amendment twice before it goes to the ballot, and 33 require either a single supermajority vote or a majority vote in two legislative sessions.

The advantage of the double-vote requirement is that it allows more time for voters to learn about and consider the measure. It also gives the legislature a chance to act on an issue if a measure receives substantial support in its first election. Most amendments in Nevada that receive a majority "yes" vote in the first election also pass the second election. However, at least three measures—two tax measures and a term limits measure—that passed in the first election but failed in the second.

Conflicting Measures

It has become a common technique for initiative proponents to qualify multiple or competing measures that address the same subject. Often, the motive for this is to confuse voters, ensuring that a particular measure—or all of the competing measures—will fail. It is important that states have a standard for determining how to respond when conflicting measures are passed by voters. A state without such a standard may someday find itself in a complicated and expensive court battle to sort out conflicting measures.

> Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

Legislatures have a variety of ways for dealing with the passage of laws that conflict with each other. It is common for a state to provide the code revisor with authority to rectify certain problems without requiring further action. Commonly, revisors may not alter the sense, meaning or effect of an act, but may renumber and rearrange sections, transfer or divide sections, change capitalization, correct manifest typographical and grammatical errors, and make other such minor changes. States also may provide a series of rules to help resolve conflicts. For instance, if amendments to the same statute are enacted without reference to one another, they often are harmonized to give effect to each, to the extent possible. If conflicting amendments or statutes are irreconcilable, the most recently enacted amendment or statute generally prevails.

Other Ideas for Reform

Sunset Provisions

Many states currently use a sunset process. In these states, some laws contain an automatic termination provision, meaning the law automatically terminates unless it is reauthorized.

It is even more common for states to subject certain agencies to termination unless they are reauthorized. No state currently requires a sunset provision for initiative measures.

It has been suggested that requiring a sunset provision on initiative measures would provide an opportunity and a formal venue for the legislature and others to publicly discuss the effects of an initiative. If an initiative had unintended consequences, they would come up during the sunset process, and the legislature might have the opportunity to show voters why the initiated law needed amendment. Arizona has considered bills that would impose a sunset provision on initiated laws, and it was recommended by the California League of Women Voters in its 1999 position statement on the initiative process.

Supermajorities

Several states require a particular type of supermajority vote for ballot measures (see Table 17). In these states, not only must a majority of votes cast on the measure be affirmative, but a certain percentage of votes cast in the election must be in favor of the measure. For instance, in Massachusetts, an initiative must receive a simple majority, and the votes in favor of the initiative must be equal to at least 30 percent of the total votes cast in the election. Such restrictions are intended to address the problem of voters who choose not to cast a vote on an initiative. In effect, such restrictions count the lack of any vote as a "no" vote. They presume that a non-vote is an indication of the voter's preference to maintain the status quo in favor of any change. Opponents of this idea say that it creates a disadvantage for measures that appear later on the ballot, and that it is unfair because the same requirement is not imposed on candidate elections.

Recent Legislative Action

Eight states have considered changing the passage requirements for initiative measures since 1999. Proposals that were considered but not enacted include the following.

- Requiring a two-thirds vote to pass an initiative that changes state revenues and for constitutional amendments (considered in Arizona, California).
- Requiring a 60 percent vote on initiatives resulting in a loss of state revenues of more than $100 million (considered in Mississippi).
- Requiring a two-thirds vote on conservation initiatives (considered in Missouri).
- Requiring that constitutional amendments be passed at two consecutive general elections before taking effect (failed on the ballot in 2000 in Nebraska).
- Requiring a three-fifths vote to pass a constitutional amendment (considered in Oregon).
- Requiring that the ballot title for an initiative that contains any supermajority voting requirement also contain a statement indicating that the measure will allow a minority of voters to veto the will of the majority in certain elections (considered in Oregon).

- Establishing a method for the Legislature to determine if an initiative measure has substantial fiscal impact; requiring measures that are determined to have a substantial fiscal impact receive a vote of 60 percent to pass (considered in Washington).

- Requiring a two-thirds vote to pass an initiative that allows, limits or prohibits the taking of wildlife (considered in Wyoming).

APPENDIX A. THE INITIATIVE STATES

	Statutory Initiative	Constitutional Initiative
Alaska	D*	None
Arizona	D	D
Arkansas	D	D
California	D	D
Colorado	D	D
Florida	None	D
Idaho	D	None
Illinois	None	D
Maine	I	None
Massachusetts	I	I
Michigan	I	D
Mississippi	None	I
Missouri	D	D
Montana	D	D
Nebraska	D	D
Nevada	I	D
North Dakota	D	D
Ohio	I	D
Oklahoma	D	D
Oregon	D	D
South Dakota	D	D
Utah	D&I	None
Washington	D&I	None
Wyoming	D*	None

D—*Direct Initiative*: proposals that qualify go directly on the ballot.

I—*Indirect Initiative*: proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. Depending on the state, the initiative question may go on the ballot if the legislature rejects it, submits a different proposal or takes no action.

D*—Alaska and Wyoming's initiative processes exhibit characteristics of both the direct and indirect initiative. Instead of requiring that an initiative be submitted to the legislature for action (as in the indirect process), they require only that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned. The intent is to give the legislature an opportunity to address the issue in the proposed initiative, should it choose to do so. The initiative is not formally submitted to the legislature.

Source: National Conference of State Legislatures, January 2002.

Appendix B. Other Initiative Reform Commissions

California Commission on Campaign Financing. *Democracy by Initiative: Shaping California's Fourth Branch of Government.* Los Angeles: Center for Responsive Government, 1992.

California Constitution Revision Commission. *Recommendations of the California Constitution Revision Commission to the Governor and the Legislature,* August 1996.

California League of Women Voters. Positions on the Initiative and Referendum Process. http://ca.lwv.org/lwvc/issues/gov/initref.html, 1999.

California Policy Seminar. *Improving the California Initiative Process: Options for Change,* November 1991.

Citizen's Commission on Ballot Initiatives. A. Alan Post, Chairperson. *Report and Recommendations on the Statewide Initiative Process,* January 1994.

City Club of Portland. *The Initiative and Referendum in Oregon,* February 1996.

Committee on Ethics and Elections, Florida House of Representatives. *Florida's Citizen Initiative Process,* November 1994.

League of Women Voters of Oregon Education Fund. *Oregon's Initiative System: Current Issues,* Spring 2001.

Nebraska Petition Process Task Force: Majority and Minority Reports. Senator DiAnna Schimek, Chair, May 1994.

Simmons, Charlene Wear. *California's Statewide Initiative Process.* Sacramento: California Research Bureau, California State Library, May 1997. (Contains collection of reforms proposed by California newspapers.)

The Speaker's Commission on the California Initiative Process. David Abel, Chairman. *Final Report,* 2002.

GLOSSARY

Advisory Initiative—A non-binding proposed statute and/or constitutional amendment that is initiated by citizens and placed on the ballot for a popular vote after a petition process.

Direct Initiative—A proposed statute and/or constitutional amendment initiated by citizens and placed on the ballot for a popular vote after a petition process. If passed by the voters, the statute or constitutional amendment takes effect without legislative or gubernatorial action.

General Policy Initiative—A citizen-initiated proposal for a statute and/or constitutional amendment that is general in nature, and does not contain specific constitutional or statutory language. If voters pass a general policy initiative, the legislature is required to take action to develop and implement the policy.

Indirect Initiative—A citizen-initiated proposal for a statute and/or constitutional amendment that is first submitted to the legislature, which has an opportunity to act on the proposed legislation. The initiative question may be placed on the ballot if the legislature rejects it, submits a different proposal or takes no action.

Legislative Referendum/Referral—A proposed or newly enacted law or proposed constitutional amendment placed on the ballot by the legislature for voter approval.

Popular Referendum—A process by which voters may petition to place a recent enactment of the legislature on the ballot for approval or rejection by the people.

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Subject: testimony 3/25/03 re HB31-Rep.Wms ballot initiative
Date: Tue, 25 Mar 2003 09:09:00 -0900
From: "Richard or Mary Bishop" <rmbishop@ptialaska.net>
To: <fran_earling@legis.state.ak.us>

Mr. Chairman and members of the Committee,

My name is Richard H. Bishop. I live on the outskirts of Fairbanks. I strongly support House Bill 31.

I am a game biologist by training. I retired from ADF&G in 1989 after over 20 years work on game research, management and department administration. Since retirement I have worked in various capacities, mostly with the Alaska Outdoor Council, on fish and wildlife resource issues, including several initiatives.

Initiatives aren't a bad tool when used to protect people's rights. Unfortunately, most initiatives are used to restrict people's rights. Even the founding fathers of this country were wary of the impact of initiative systems on minority rights.

In general, hunters, fishers and trappers are a numerical minority in Alaska. And in general, wildlife initiatives in this state and nation-wide, have promoted restriction of scientifically sound, lawful hunting, trapping and sound state wildlife management.

Rep. Williams' bill, HB31, would help defend against "the tyranny of the majority" by requiring broader representation of Alaskan minorities of all kinds, not just hunters and trappers, in order to put an initiative on the ballot.

Instead of a bad idea being sold by slick advertising to a gullible majority who have no stake in the issue, the idea would have to pass muster with those whose interests are most affected.

HB31 does not ban initiative. But 26 states now do and get along fine. HB31 really says "If you want to use this method of making law, you'd better have an idea that helps people – not hurts them...or it just won't fly."

Initiatives on wildlife issues are widely condemned by professional fish and wildlife biologists in Alaska and across the U.S. because they've proven a poor substitute for the legal framework developed over the last 100 years for managing fish and game.

With wildlife, it's easy to sell a bad idea with great--and often misleading—advertising. People mostly like wildlife, and mostly don't like to bother checking out the facts. So they react to the emotional appeal of a ballot campaign.

Alaska has an outstanding legal framework for fish and game management – consisting of the local advisory committees, the Board of Fisheries, the Board of Game and the Legislature, all working together with ADF&G professionals. The initiative process, as used by anti-hunters is an "end run" around the system.

HB31 would improve the working climate of this commendable system. It would be harder to undermine the system through initiatives that are not based on sound scientific management-- initiatives that penalize rather than promote the interests of Alaska's fishers, hunters and trappers-- through the "tyranny of the majority".

Thank you for taking my testimony.

ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #202, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

March 13, 2003

MAR 1 4 2003

Honorable Bruce Weyhrauch
Chairman
House State Affairs Committee
Capitol Building
Juneau, AK 99801

RE: HB-31, Relating to Initiative and Referendum Petitions

Dear Representative Weyhrauch,

I am writing in support of House Bill 31. This bill will make minor but important changes to the requirements for placing initiatives and referendum petitions on the ballot.

In recent years groups opposing mining, hunting, trapping, etc. have used initiative petitions in several states to place items on ballots. These groups are funded in large part by private non-profit foundations. Their strategy appears to be one of finding an issue that, on the surface, has emotional appeal to the public. They then arrange funding through the foundations to fight the issue. Often times the issues being attacked have rather small unorganized constituencies and who cannot muster sufficient funding to tell the other side of the story to the public and as a result the initiative passes.

By increasing the number of voting districts where signatures must be raised, HB-31 would make it slightly more difficult for these special interest groups to bring issues to the ballot. This is especially important for Alaska where remote and rural areas often have a very limited voice in the Legislature due to their small population.

We support passage of HB-31 and urge that it be passed out of Committee at the earliest date.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Honorable Bill Williams

January 13, 2003

TO: Senator Ben Stevens
Representative Lesil McGuire

Good Morning:

We are writing to register our opposition to House Joint Resolution 5 and House Bill 31 which will place new restrictions on the citizens' right to petition the government. The citizen's right to initiative is a basic American right and should be expanded not restricted. The government should do all things possible to encourage citizen participation for it is thru citizen participation that good government is created. These bills do not improve government, they only restrict the citizen's right to redress. When and if these resolutions come before you for your consideration please consider the citizens of Alaska and vote no.

Sincerely

Michael and Michelle Citti
4641 Edinburgh Drive
Anchorage, Alaska 99502
(907) 243-2990 Home
(907) 344-0302 Office

CC: Representative Bill Williams