ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672
8324 SENATE JUDICIARY

Majority Leader Chris Paulson

Limiting the Majority

Colorado is not alone in trying to limit the powers of the majority party. The most common limitation on majorities is a requirement for extraordinary votes to pass specific types of legislation. More than half the states require extraordinary majorities to approve constitutional amendments, and all but 11 impose such votes to override gubernatorial vetoes.

Arkansas, California, Delaware, Louisiana and South Dakota require majorities greater than 50 percent to pass tax bills, and the South Dakota Senate and both chambers in Wisconsin cannot pass changes in retirement benefits by simple majority.

Any provision designed to protect the rights of minority parties can have the effect of limiting the majority. This would include rules (or informal practices) that grant the minority leader power to appoint committee members of the minority party, the absence of limitations on floor amendments, proportional representation on committees, or provisions that allow for minority committee reports.

Rules that allow dilatory tactics by a minority of the membership may be particularly troublesome to majority parties. Perhaps the best known protection of legislative minorities is the U.S. Senate's filibuster rule that allows members to hold the floor and prevent the Senate from pursuing its agenda unless two-thirds of the members vote to shut off debate.

And the filibuster serves the minority equally as well in the Texas Senate where former Senator Bill Meier holds the world record–44 hours–and is listed in the *Guinness Book of World Records*. In Texas the filibuster is especially effective over a weekend when the senator wants to attract public attention, and in the dying days of a session when other members want to move their own bills along and will withdraw support to get things moving again. When a senator wants to filibuster in Texas all he has to do is stand up and start talking, but he can't lean on the desk, eat, drink or walk around. And, unlike the U.S. Senate, he must confine his remarks to the bill's topic.

The South Carolina Senate has a curious practice, referred to as "senatorial courtesy," by which a senator can request that a bill not be considered unless he is present. Members then "take a walk" when the bill they wish to delay is about to be called. While the practice has never been used on an appropriation bill, it is often used with other legislation. A strong majority can force action eventually, but the practice allows the minority to delay, and, presumably, to bargain for changes in the legislation.

—Karl Kurtz

Note: For more information on these procedures, see *Inside the Legislative Process: A Comprehensive Survey of the American Society of Legislative Clerks and Secretaries*, NCSL, 1988.

it's just that they don't see why the operations of government shouldn't be held to high standards.

In the 1989 session, things went smoothly under the new rules until late in the session when the spending packages were assembled. The Republican majority, especially in the House, retreated to familiar ground—the party caucus—to sift through the 200-plus pages of the state budget.

The majority party wouldn't let the annual budget bill go to the floor without tying up enough votes in caucus to ensure passage of specific provisions. But GAVEL still inhibited discussion, say House leaders.

"It took us longer to arrive at what we thought was consensus," says House Speaker Carl "Bev" Bledsoe.

"It created less chance for cooperation and not more," says House Majority Leader Chris Paulson. "Part of the hard feelings that occurred on the tough issues stemmed from the fact that people couldn't go to a caucus and communicate with each other."

Besides giving a vote to every legislator, GAVEL gave a hearing to every bill. It has three major provisions:

- It requires consideration "on its merits" of every measure referred to a legislative committee of reference and specifies that a motion to report a bill to the full chamber "shall always be in order"—what Bledsoe calls the "super motion."
- It requires that bills appear on the House or Senate calendar in the order in which they were reported out of committee.
- It outlaws the binding caucus, saying that legislators cannot "commit themselves or any other member or members, through a vote in a party caucus or any other similar procedure, to vote in favor of or against any bill . . . or other measure . . ."

Some legislators were offended by the insinuation that they were subverting the process and would continue to do so unless rigid rules were locked into the constitution. 'I think it really put a taint on the interpersonal relationships among members," says House Majority Leader Paulson.

Paulson, a Republican from the Denver suburb of Englewood, the bluntest of the amendment's critics, called it "very vague, disjointed, and now it's part of the constitution. It just adds to the

innuendo that the legislative process is somehow not to be trusted," Paulson says.

Nonetheless, even GAVEL's critics concede it did some good. Perhaps its biggest success was in doing away with the pocket veto by committee chairman. Its earliest victim was the House Rules Committee, once a "killing ground" for legislation the House leadership didn't like.

GAVEL's automatic calendar provision, the one requiring all committee-approved bills to be scheduled for debate in the order in which they were reported out, is the system the Senate has used for years. But the House has resisted.

With the amendment in place, Speaker Bledsoe, a plain-speaking cattle rancher from eastern Colorado's prairie, simply decided not to appoint a Rules Committee before the legislature's 1989 session. "It wouldn't have any power at all," Bledsoe said.

The amendment also was demonstrably successful in forcing legislation out of committee. While the Senate didn't have a Rules Committee, it did have Appropriations and State Affairs—two committees with broad authority to consider a wide range of legislation, and with chairmen who understood the sig-

Frank Kimmel

Minority Leader Ruth Wright

Shorter Session Doesn't Thwart Oklahoma

Encouraged by the governor and the state's largest newspaper, Oklahoma voters set time limits on their legislature in March, establishing a new time frame for the legislative session and setting stricter rules for adjournment.

And despite a long-time tradition of dragging out the closing session with 24-hour days, and a change in the speakership only nine days before, the Oklahoma Legislature managed to adjourn on time this year. They were, in fact, finished with their work almost two hours early.

Even before the ballot question passed, limiting sessions to 80 days, the House and Senate established cutoff dates for hearing bills in an attempt to conform with the May 26 deadline they knew it would impose.

While there are a few concerns for next year, when the session will be nearly a month shorter because the initiative changes the opening day to February instead of January, most legislators are pleased with the outcome.

"It feels different; it feels good," said Senate President Pro Tem Robert Cullison, who had been one of the most vocal opponents of the measure.

Representative Cal Hobson, who led the movement to oust speaker Jim Barker, said "the revolt gave us the ability to finish." While a special session looked probable under Barker (to deal with prison crowding and extra education funds), leaders reached agreements on the issues shortly after Steve Lewis, the new speaker, took over.

Passed by a large margin, the initiative modifies the state's constitution, establishing a later legislative starting date and fixing a definite date and time for sine die adjournment. Now the Legislature will start the first Monday in February instead of the Tuesday after the first Monday in January and adjournment now must come at 5 p.m. on the last Friday of May. In the last few years, the last day of session in Oklahoma was likely to inspire debate over the very definition of a day. The minority party has gone to the state Supreme Court twice since 1986 to have it defined.

But opponents of the measure still have concerns over the effects of the shortened session. Jean McLaughlin, president of the Oklahoma League of Women Voters, worries that the amendment is a simplistic solution to a complex problem. McLaughlin says that the shorter time frame will not eliminate the large number of bills that pile up at the end of session. "A shorter session only exaggerates this problem," she says. "Legislative action should be preceded by intensive study and analysis. A shortened session will just encourage hasty action and inadequate consideration of pressing issues."

George Humphreys, director of research for the House, says compressing deadlines at both the beginning and end of the session does create some concern, but he noted that there will be an effort to encourage members to pre-file bills, to use the interim more effectively for studying proposed legislation, and to bring more discipline to committee consideration of bills.

And observers say that because Governor Henry Bellmon led the movement for a shorter session, he will be inclined to work more closely with the Democratic leaders in the Legislature.

–Tony Hutchison

Suit for GAVEL Violation Dismissed

A number of Colorado organizations worked together to get the GAVEL amendment passed, but when it came to filing a lawsuit alleging violations of GAVEL by the legislature, Common Cause had to go it alone. Sandra Eid, president of Citizens for Legislative Reform, said the group would have had a hard time getting approval from its 40 or so member organizations to proceed with a lawsuit, and maintained that negotiations could work out problems with compliance before the legislature convenes again next year.

Common Cause filed suit in May, alleging that lawmakers violated GAVEL by securing commitments on the budget bill during caucuses; but on June 16 District Court Judge Sandra Rothenberg dismissed the suit, saying she could not rule on the question because state legislators are immune from legal challenges involving legislative actions.

During a court hearing, lawyers argued over whether legislative immunity, a doctrine that dates back to 16th-century England, protects legislators during caucus deliberations. Common Cause lawyers argued that they should not be protected because caucuses are basically political meetings. But defendants' lawyer said caucuses should be considered "legislative activity" because they are subject to the state's open meetings law.

House Majority Leader Chris Paulson said, "This group [Common Cause] has tried to intimidate the legislature, and the courts have found no merit in it at all. We can't have self-professed public interest groups trying to run roughshod over elected officials."

Briggs Gamblin, executive director of the state's Common Cause chapter, said, "We're very disappointed, but we're not finished." At press time, the group was mulling over its options—to file suit on the budget or to appeal the case to the state Supreme Court. "We're not going to drop it," said Gamblin. "We're going to pursue it." —*Pat Wunnicke*

nals from leadership about which bills probably weren't worth even putting on the table. Coincidentally, the House counterparts of those committees—House Appropriations and House State Affairs—were often used in the same way after it became less fashionable in recent years to use Rules as a bottomless pigeonhole.

"I never used the Rules Committee a whole lot in that way," says Bledsoe, who has been the speaker since the 1981 session. "But a little bit. If we had a bill that some of us felt was a bad bill to have on the floor, it wouldn't get to the floor."

But this year, several bills that wouldn't have had a chance before GAVEL, including some sponsored by Democrats, came out of committee and even passed.

"We as a minority party felt much better about it than in previous years," says House Minority Leader Ruth Wright. "We used to tread lightly, hoping a bill would make it through Rules. This year it was just much more of a democratic process."

Nan Morehead, chairman of the Colorado Social Legislation Committee, agrees. "That part of it has been very successful," she says. She and five other public-interest lobbyists were the originators of GAVEL. In June 1987, after the end of that year's session, "we were just really frustrated by not being able to get anything through."

In a series of meetings over the summer of 1987, the group—which included representatives of Colorado Common Cause, the state League of Women Voters and Citizens for Correctional Reform—"spent a lot of time talking about abuses." The group organized itself as Citizens for Legislative Reform and went about drafting legislation that it would try, first, to get the legislature to pass. If that failed, as anticipated, Citizens for Legislative Reform was ready to circulate petitions to put the question on the 1988 general election ballot.

Two offenses—keeping bills off the table in committee and never letting them get to the floor from House Rules—were "real easy to zero in on," Morehead says.

The binding caucus issue was a bit more difficult—"serious, but the hardest one to explain to people," she says.

The majority party in Colorado always has used the caucus extensively to solidify party positions on important legislation. In the closing days of the session, in the logjam of important issues that have been put off until everything can be looked at in relation to everything else, legislators spend more time in caucus than they do on the floor.

But if it were used in no other situation, the caucus would persist as the only way to deal with the complicated long appropriations bill, the state's annual budget.

The bill is drafted by a six-member Joint Budget Committee, which spends months studying the governor's budget suggestions and listening to its own staff's recommendations. The bill that emerges is a statement of legislative philosophy; in Colorado's weak-governor system, the governor's budget has about as much status as a letter to Santa Claus. The long bill, as it is reverentially called, has attained almost mythic proportions as complex, hard to understand and manageable only by the application of strict party discipline.

But even party discipline is subject to the Colorado tradition of open government. Even before the state passed its open-meetings Sunshine Law in 1972, then-speaker John Fuhr had opened up the House Republican caucus to the press and public.

Former Senator Ralph Cole, the Sunshine Law's most ardent opponent right up until he retired from the legislature in 1988, challenged its application to the caucus as unconstitutional. In 1973, the year the sunshine law took effect, Cole sought a declaratory judgment in Denver District Court, arguing that the law violated his right to free speech and conflicted with a provision to the Colorado Constitution that allows the General Assembly to set its own rules.

But 10 years later, in 1983, the Colorado Supreme Court finally had the last word on the issue of whether to open caucuses. It said, in effect, that because a caucus vote could determine what happens to legislation on the floor, it was subject to the sunshine law requiring that meetings "at which public business is discussed or at which any formal action may be taken" be open to the public.

The 1983 court ruling, however, did not raise the issue of the binding caucus. Colorado legislative leaders insist that the true binding caucus—where a split members-only decision can still force a solid caucus position, thus sealing a bill's

Representative Wayne Knox

fate – hasn't been used in the state for 20 years. They would argue that the more recent Colorado tradition of requiring a floor majority to commit itself in caucus is fairer and more open than the deal-making and vote-trading that goes on in other states.

The Colorado caucus system – at least until GAVEL – worked this way: The majority party, the Republicans in both House and Senate, would discuss and amend and tinker with legislation until there were enough votes on the prevailing side in caucus to ensure a winning vote in the full chamber. The Republicans in the 35-member Senate waited until they got 18 votes wrapped up in caucus; it took 33 votes in the House caucus to send a bill to the full 65-member body.

Before that, but only in the House, theoretically as few as 17 votes could determine which way the 65-member chamber voted on an issue. That could happen if the majority party had only a 33-32 edge and the caucus voted 17-16 to commit itself to a particular vote.

But that's only an extreme application of theory. In practice, as recently as 10 years ago, the Republicans allowed a two-thirds vote in what was then a 38-member caucus to bind 33 votes. That meant that 26 votes could force seven other Republicans to vote against their better judgment.

Everyone today roundly condemns such minority rule, but counting votes in caucus until a majority is assembled is still seen by at least the House majority leadership as the only way to handle the budget bill.

As Speaker Bledsoe puts it, the minority party shouldn't be allowed to "play games" with the budget, tacking on costly amendments with popular appeal that no one can afford to vote against politically, but which the state can't afford financially.

"The majority party supposedly has a different approach to spending than the other party," Bledsoe says. "And it's the people, the voters, who decide which party wins the majority," he adds. When he was in the minority, the speaker said, he "expected the majority party to make the big decisions – because they won the election."

The binding caucus isn't an easy issue to explain to the average voter, but GAVEL's backers finally decided that the only way to get at it was to tack it on to the two committee provisions. Because of its complexity, "we always listed it last," Nan Morehead says.

The first attempt to implement the changes was a bill introduced by veteran Denver Representative Wayne Knox, a Democrat, late in the 1988 session. Not surprisingly, the bill died in the House State Affairs Committee. The GAVEL group immediately activated its petition drive to put the proposal on the November 1988 ballot. "We felt it would end up that way anyway," Morehead says. "But it was important to give the legislature one last chance."

There was only muted opposition to the proposal. Several legislators muttered quietly that amending the constitution was unnecessary, but none of them seemed eager to take a high profile in opposing a proposal with such reformist appeal.

GAVEL passed. And so did an amendment the legislature itself put on the ballot – to limit legislative sessions to 120 days, 20 days fewer than the previous, more flexible limit. The shorter-session amendment passed by only 5 percent while GAVEL had an overwhelming 44 percent majority.

The combination of fewer days and more work created considerable apprehension before the session began. One former legislator suggested that controversial issues would be avoided as much as possible because the time they consume in hearings would prevent committees from working through their agendas.

But "two of the three parts worked very well," says Representative Knox. Speaker Bledsoe had warned before the session that "it's going to make a process that's fairly inefficient even more inefficient." Knox disagrees. "I guess you can say it's efficient not to consider bills. But it's obviously unfair and undemocratic."

Senate President Ted Strickland had said the combined effect of the amendments would be to make the lobbyists more powerful and reduce citizen participation. There wouldn't be time for long hearings or even lengthy advance notice. Legislators would have to rely on the ever-present lobbyists for the information they would need quickly.

"Oh, you bet," everyone had to work harder, Knox says, including the lobbyists. "The lobbyists were running around with their tongues hanging out," says Minority Leader Wright. But in retrospect, most legislators feel that lobbyists didn't have any particular advantage – and lobbyists agree.

Early in the session, many lobbyists complained that they couldn't keep up with all the committee meetings. And they were always nagged by the fear that GAVEL permitted a bill to be called up for action at any time. But the "super motion," as Speaker Bledsoe calls it, was never used. Not once.

Party Caucus Alive in Other States

Other states use the party caucus heavily, but not quite in the same way that Colorado does.

Wisconsin uses a similar procedure in handling its budget, but the caucus affixes a lot of other legislation to the bill, thus bypassing other committees. William T. Pound, executive director of the National Conference of State Legislatures, says the Wisconsin practice has led to "unprecedented vetoing" by Republican Governor Tommy Thompson. He vetoed parts of words and struck single digits from multidigit figures.

Washington's state legislature also has a strong caucus tradition, but there it's a question of both parties meeting almost every morning to "talk things out" before they go to the floor, according to Pound.

And in Pennsylvania, the caucus is used heavily—both to inform members and to get a sense of where the membership is headed on an issue. And while votes aren't binding, there's a clear implication that if it's discussed in caucus, you go the way the leadership goes.

Lawmakers in other states have different ways to forge party policy. In many places, Pound says, the leadership is more autocratic than it is in Colorado. Senates generally tend to be more open everywhere—"smaller, more collegial, more stable," he says.

The old dictatorial style is fading, though, Pound adds. It's true that leadership still clings to wielding power through committee assignments, the awarding of budget pork or the campaign mechanism of collecting money centrally and doling it out to members. But as individual members get more staff help and more access to information, they're becoming more independent.

Ruben Valdez, a contract lobbyist who was the speaker the last time the Democrats controlled the House, says lobbyists accommodated themselves to the quickened pace. Nor did he notice any particularly increased reliance by legislators on the lobbying corps.

Briggs Gamblin, executive director of the state's Common Cause chapter, says considering more bills in less time may have had the benefit of increasing the effectiveness of the better-informed lobbyists while lessening the powers of the good-ol'-boy lobbyists who used to wield influence primarily by trading war stories with key legislators in the relaxed atmosphere of a nearby bar.

GAVEL, in fact, was working just fine until the long bill came up. Then the old anxiety about the budget took over. "It's almost a cultural thing with the Republicans," says House Minority Leader Wright.

In the Senate, the GOP caucus insisted on 18 votes before it would close off discussion on any departmental section. The senators eventually had to abandon that strategy when they couldn't put together 18 votes for a public education spending package. So the last Senate caucus vote on the long bill was a simple majority, thus weakening the potential argument that the binding caucus was at work again.

Senator Wayne Allard, a Loveland veterinarian, who is the Senate caucus chairman, says the caucus never took a roll call, never took names, and "a few people changed their vote from caucus to the floor"—hardly "binding."

However, Colorado Common Cause didn't see it that way and raised the possibility of a lawsuit (which, in fact, it filed when the session ended). So by the time the long bill got to the House, the Republican caucus there had devised another procedure. The 39 Republicans would recess every now and then so that a cadre of temporary assistant floor leaders could go out into the hallways to count votes.

"We tried extremely hard to abide by the letter of the law," Speaker Bledsoe says. The leadership met with staff and with lawyers before it unveiled the recess-and-count procedure. "My theory was, if you put interpretations on a document like that (GAVEL), why, you're just inviting trouble," Bledsoe says.

He and Paulson also argue that the amendment, in any event, conflicts with their First Amendment rights to express themselves on legislation: If they can't keep the promises they make, then their rights are violated.

Both Gamblin and Bledsoe seemed resigned early in the session to the necessity of a court case to sort out exactly how GAVEL must be applied to the legislative process. Paulson complains that the amendment invited litigation from the start. "It's so poorly done anybody can interpret it any way they want," he says.

Colorado Governor Roy Romer, a Democrat, complained at the close of the session that the Republican legislature "has got a lot to learn" about how to live with the provisions of GAVEL and its own 120-day limit. "We ought to get up here and do business and not try to play partisan games," he said.

One problem is that a number of bills sent to Appropriations died there when the session ended May 10—or were reported out so late that there wasn't time for the other chamber to act on them. Bills with fiscal impact aren't subject to the legislature's deadlines for moving other bills out of committee from house to house. Every other bill did get a hearing, Gamblin noted, but when it came to spending bills, the legislature "found a loophole."

Legislators, though, believe that the institution responded, grudgingly perhaps, with more bipartisanship.

Sandy Hume, a Republican from Boulder, was the only member of the Senate caucus who refused to participate in the caucus straw votes—because he felt it violated the new amendment. Says Hume: "I think it is eminently reasonable that we could function quite adequately under GAVEL. I think it would vastly decrease the influence of partisan politics."

And Senate Caucus Chairman Allard says this year's budget bill, in the Senate at least, was "more bipartisan—because it's done on the floor instead of in caucus." And without a chairman's pocket veto in committee, "everybody in that committee has to take responsibility for voting."

House Minority Leader Wright says GAVEL helped the other party, too. "GAVEL also relieved Republicans from the kind of pressures leadership could put on them to toe the line or otherwise your bill doesn't get out of Rules. I think the Republicans were able to be more independent," she says. "Things were just wide open on the floor. We even killed one of the speaker's bills."

SJR

6

ALASKA STATE LEGISLATURE

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Senator Rick Halford

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senator Rick Halford

DATE: January 13, 1993

SUBJECT: Sponsor Statement -- SJR 6, "Proposing amendments to the Constitution of the State of Alaska authorizing the use of the initiative to amend the Constitution of the State of Alaska by approval of two-thirds of the votes cast on the proposed amendment."

The Constitution of the State of Alaska is only indirectly accessible to the people which it governs. At present, a two-thirds vote of the Legislature is required to place any proposal to amend our constitution on the general ballot, whereupon it must be approved by a majority of the voters. This indirect process often frustrates the clear will of the people, particularly when they desire to limit the government's power over them.

The large majority of Alaskans strongly support the right to amend our constitution by initiative. However, prudence dictates that the constitution not be amended easily by a bare majority nor that the initiative process become a forum for divisive issues better addressed by law than by constitutional amendment. These problems would be avoided by requiring a two-thirds majority of those voting on the question to approve proposed amendments brought to the ballot by initiative.

Thank you for your consideration of this joint resolution. I strongly urge your expedient passage of this legislation from your committee.

SPONSOR STATEMENT

DIVISION OF LEGAL SERVICES

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MEMORANDUM January 22, 1993

SUBJECT: Senate Joint Resolution 6: Proposing constitutional amendments authorizing use of the initiative to amend the state constitution -- sectional analysis (Work Order No. 8-LS0255\A)

TO: Senator Rick Halford
Attn: John Shepherd

FROM: Jack Chenoweth
Legislative Counsel

This memorandum addresses the principal features of SJR 6. The measure, a proposed constitutional amendment, would authorize use of the initiative in order to amend the state constitution. This change would set aside the Supreme Court's decision in Starr v. Hagglund, 374 P.2d 316 (Alaska 1962), an early case concluding that the initiative process could not be used to amend the state constitution. However, a proposed constitutional amendment presented to the voters on the basis of an initiative would require affirmative approval of two-thirds of the voters cast on the proposed amendment so presented.

Bill section 1 extends the right of the people to propose and enact laws to constitutional amendments.

Bill section 2 amends the initiative "application" process to include applications for proposed constitutional amendments. This section also corrects the reference to "bill to be initiated" by substituting the phrase "proposed law to be initiated" and deletes gender references to the lieutenant governor.

Bill section 3 expands the "Initiative Election" provision to direct the lieutenant governor to prepare ballot titles and propositions summarizing constitutional amendments proposed through the initiative process (as is currently done with proposed laws that have been presented on the basis of an initiative) and to declare that, if substantially the same constitutional amendment has been proposed by the legislature to the people, the constitutional amendment proposed by initiative shall not also appear on the ballot. The section change also substitutes "substantially the same law" for "substantially the same measure," a technical change based on the

Legal Sectional

understanding that a bill that has been enacted (thereby annulling a proposed law presented by an initiative) is no longer a "measure" but more properly referred to as a "law."

Bill section 4 restates the substance of constitutional provisions addressing disposition of initiatives and referendums as currently set out in art. XI, sec. 6 of the state constitution. For purposes of clarity, the provisions are separately set out as subsections:

Subsection (a) affirms that the lieutenant governor is the state officer charged with responsibility for issuing a certificate of election for any proposed initiative or referendum proposition.

Subsection (b) is entirely new and prescribes the requirement that a constitutional amendment proposed by initiative must draw two-thirds of the votes cast to become effective. As with laws that are initiated, the effective date of an initiated constitutional amendment is set at 30 days following certification of the election returns.

Subsection (c) restates that laws that are initiated require a simple majority of the votes cast to become effective and makes miscellaneous changes.

Subsection (d) restates that legislative acts subject to a referendum are rejected by a simple majority of the votes cast.

Subsection (e) carries forward unchanged the final sentence of this section.

Article XIII, section 1 of the constitution sets out the procedures applicable for submission of proposed constitutional amendments that have undergone the legislative process. In addition to a grammatical correction, bill section 5 limits the operation of the current language of that section to constitutional amendments that have undergone legislative review and secured legislative approval, and adds a final sentence acknowledging that constitutional amendments may be proposed through the initiative process under article XI.

Bill section 6 directs submission of these changes to the voters in the manner provided by article XIII, sec. 1 and applicable state election law.

JBC:gc
93-056.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 6

Revision Date: _____
Title: Amendment to the Constitution RE: use of initiative to amend State Constitution
Sponsor: Senators Halford, Miller, Leman
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary Elections

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE:	0	0	0	0	0	0
FUNDING:						
1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0
POSITIONS:						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing and additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director Phone: 465-4611
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coghill
Agency: Office of the Lt. Governor Date: 1/15/93

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(3)

Article XI

Initiative, Referendum, and Recall

Section 1 - Initiative and Referendum.

The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

Section 2 - Application.

An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review. [Amendment approved August 25, 1970 - Effective October 10, 1970]

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, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor. [Amendment approved August 25, 1970 - Effective October 10, 1970]

Section 4 - Initiative Election.

An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void. [Amendment approved August 25, 1970 - Effective October 10, 1970]

Section 5 - Referendum Election.

A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held

more than one hundred eighty days after adjournment of that session. [Amendment approved August 25, 1970 - Effective October 10, 1970]

Section 6 - Enactment.

If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law. [Amendment approved August 25, 1970 - Effective October 10, 1970]

Section 7 - Restrictions.

The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

Section 8 - Recall.

All elected public officials in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by the legislature.

shall not apply to property held by individuals in fee without restrictions on alienation.

Section 13 - Consent to Act of Admission.

All pr. ..ons of the act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property, are consented to fully by the State and its people.

Article XIII

Amendment and Revision

Section 1 - Amendments.

Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor. [Amendment approved August 25, 1970 - Effective October 10, 1970; Amendment approved August 27, 1974 - Effective October 12, 1974]

Section 2 - Convention.

The legislature may call constitutional conventions at any time.

Section 3 - Call by Referendum.

If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional

Alaska State Legislature

(7)

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April 30, 1991

MEMORANDUM

TO:

FROM: Gordon S. Harrison, Director gsh

RE: **Initiative Process**
Research Request 91.262

You asked for information about the initiative process in a western state other than Alaska. We have chosen Utah as a case study, although we are enclosing some comparative information from the *Book of the States, 1990-1991* (published by the Council of State Governments) about the initiative process in the 23 states that currently allow some variation of it.

Initiative

The initiative is the method by which citizens can enact legislation or put before the legislature a proposed law. The *direct* initiative allows the voters to enact legislation; the *indirect* initiative allows voters to introduce a bill in the legislature.

Voters may not initiate federal laws in the United States. In fact, the initiative is rarely permitted by national governments (Australia and Switzerland are two of just a few exceptions). The initiative is far more common at the state and local level.

Both the initiative and referendum--the referendum allows voters to reject at the polls an act adopted by the legislature--were championed by political reformers early in this century as devices for expanding popular participation in lawmaking. As a consequence, these progressive measures were either authorized by statute or incorporated into state constitutions in many states.

According to the *Book of the States, 1990-1991*, the direct or indirect initiative is available to citizens in 23 states. In just two of these is only the indirect initiative permitted.

Use of the direct initiative is frequently limited. For example, the initiative many not be used to amend the constitution in some states (including Alaska), nor may it be used in some states (again, including Alaska) to appropriate money. Typically, an initiative may not be vetoed by the governor. Some states give the legislature a chance to act on the subject matter of an initiative before voters are presented with the act drawn up by the sponsors

of the initiative petition. In Alaska, for example, Article XI, Section 4 gives the legislature a chance to deal with the subject of an initiative petition. If the legislature enacts a law that is "substantially the same" as the petition, the petition dies.

Some states prohibit the legislature from repealing or amending an initiated law, or at least for doing so for a specified length of time after the measure is adopted. In Alaska, for example, an initiated law may not be repealed for two years after its enactment, although it may be amended by the legislature (which, of course, might be tantamount to repeal).

In order for an initiative to reach the ballot, the petition must have a substantial number of signatures. This is to ensure that the measure is widely supported, and to protect against frivolous use of the process. The number of required signatures varies from state to state, and it is usually expressed as a percent of the number of voters who cast ballots in the most recent election.

All initiated laws must conform to constitutional and other legal standards that pertain to regular legislation. For example, voters in Alaska may not by initiative adopt a "special or local act" prohibited by Article II, Section 19 of the state constitution.

Initiative In Utah

In Utah the initiative is authorized by statute rather than by the state constitution (Attachment A). The initiative may not be used to amend the constitution; it may be used only to enact legislation. There are no limits on the type of legislation that may be adopted by the initiative.

Utah law provides for both a direct and indirect initiative. The indirect initiative, by which petitioners may introduce a bill in the legislature, requires less effort than a direct initiative: an indirect initiative requires valid signatures from five percent of the total votes cast for the office of governor in the most recent election; a direct initiative requires the signatures of ten percent of the voters. Filing deadlines and other details of these two procedures are described in the statutes.

A bill submitted to the legislature by the indirect initiative process "shall be either enacted or rejected without change or amendment by the legislature (20-11-2)."

A law enacted by the direct initiative may not be vetoed by the governor. However, an initiated law may be amended by the legislature at any time.

Attached to this memorandum are several tables from the publication *Book of the States, 1990-1991* (Attachment B) that present information about the initiative process in each of the 23 states that allow it. These tables permit a fairly

detailed comparison of the initiative process in Utah with that in other states.

I hope this is the information you were looking for. Please contact us if we can offer further assistance.

Attachments

ATTACHMENT A

districts as established in this act of the 1981 first special session of the Utah legislature.

(2) Each county clerk shall obtain copies of the official maps for his or her county from the lieutenant governor's office. Each county clerk shall, before all elections and pursuant to Section 17-5-18, establish the voting districts within each of the districts.

(3) In questions of interpretation of the census maps and census district information of this state, the official maps on file at the lieutenant governor's office shall serve as the indication of the legislative intent in drawing the district boundaries.

History: C. 1953, 20-10-5, enacted by L. 1981 (1st S.S.), ch. 4, § 3.

Title of Act.

An act relating to congressional reapportionment; providing for three congressional districts; establishing the first, second and third congressional districts; enacting supplemental provisions; and providing effective dates.

This act amends section 20-10-3, Utah Code Annotated 1953; enacts section 20-10-5, Utah Code Annotated 1953; and repeals and reenacts section 20-10-4, Utah Code Annotated 1953, as last amended by chapter 38, Laws of Utah 1971. - Laws 1981 (1st S.S.) ch. 4.

Effective Date.

Section 4 of Laws 1981 (1st S.S.), ch. 4 provided: "This act shall take effect on January 1, 1982, for the purposes of nominating and electing representatives in the Congress of the United States. For all other purposes this act shall take effect on January 3, 1983." Effective January 17, 1982. Failed to obtain two-thirds vote required for earlier effect.

CHAPTER 11

DIRECT LEGISLATION ELECTIONS

Section

20-11-1. Initiative and referendum authorized. Legal voters of this state in the number required herein may, by joining in a petition for that purpose filed in the office of the lieutenant governor as hereinafter provided, initiate any desired legislation, and cause the same to be submitted to the legislature or to a vote of the people for approval or rejection, or may require any law passed by the legislature (except those laws passed by a two-thirds vote of the members elected to each house of the legislature) to be referred to the voters before such law shall take effect; provided, that in order to make any such petition mandatory a majority of all the counties of the state must each furnish signatures of legal voters not less in number than the percentages herein required.

History: L. 1917, ch. 56, § 1; C.L. 1917, § 2290; R.S. 1933 & C. 1943, 25-10-1; L. 1984, ch. 68, § 42.

Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

Cross-References.

Authorized by Constitution, Const. Art. VI, § 1.

Enacting clause, 36-10-1.

Municipal government, optional form proposed by initiative, 10-3-1203.

Voter information pamphlets, 20-11a-1 et seq.

Construction and application.

Officers charged with administration of this law should interpret it, if possible, so as to sustain it and make its purposes effective, and bring about the purposes intended by the legislature. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

While technical construction should not be invoked to hinder or defeat the right of direct legislation by the people, procedure clearly indicated by the legislature may not be varied in such a way as to defeat some of its salutary features. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

The act authorizing initiative legislation receives a liberal construction to effectuate its purpose and all doubts as to technical deficiencies or failure to comply with the exact letter of procedure will be resolved in favor of the accomplishment of that purpose. Cope v. Toronto (1958) 8 U 2d 255, 332 P 2d 977.

Resolutions of people.

Resolutions by the people are not provided for in the Initiative and Referendum Act. White v. Welling (1936) 89 U 335, 57 P 2d 703.

Collateral References.

Statutes ⇐ 301 et seq.

82 CJS Statutes §§ 115-151.

42 AmJur 2d 649 et seq., Initiative and Referendum § 1 et seq.

Construction and application of constitutional or statutory provisions expressly excepting certain laws from referendum, 146 ALR 284, 100 ALR 2d 314.

Construction and application of constitutional or statutory requirement as to short title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 555.

Initiative statute as in effect constitutional amendment, 62 ALR 1352.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum 33 ALR 2d 1118.

Taxpayer's capacity to maintain suit to enjoin submission of initiative, referendum, or recall measure to voters, 6 ALR 2d 557.

Withdrawal: right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefore, 27 ALR 2d 604.

Law Reviews.

Amendment of Acts Approved by the People, 12 Iowa L. Rev. 272.

Constitutionality of a Delegation of Legislative Power to the People, 17 Iowa L. Rev. 239.

The Local Initiative — A Proper Sounding Board for National Issues?, 1968 Utah L. Rev. 464.

The Utah Recall Proposal, 1976 Utah L. Rev. 29.

20-11-2. Initiative — By petition to legislature. Upon the presentation to the lieutenant governor, at any time not less than ten days before

the commencement of any regular session of the legislature, of an initiative petition, signed as herein provided by legal voters equal in number to 5% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected and verified and certified to as provided in this chapter, the lieutenant governor shall transmit the same to the legislature as soon as it convenes and organizes. The law proposed by such petition shall either be enacted or rejected without change or amendment by the legislature. If any law proposed by such petition shall be enacted by the legislature, it shall be subject to referendum petition in like manner as other laws. If any law so petitioned for is not enacted by the legislature, it shall be submitted to a vote of the people at the next ensuing general election; provided, sufficient additional signatures to the petition are first obtained to bring the total number of signatures up to 10% of all votes cast for all candidates for governor at the next preceding general election at which a governor was elected, these additional signatures also to be verified and certified as provided in this chapter.

History: L. 1917, ch. 56, § 2; C.L. 1917, § 2291; R.S. 1933 & C. 1943, 25-10-2; L. 1977, ch. 95, § 1; 1984, ch. 68, § 43.

Compiler's Notes.

The 1977 amendment inserted "and verified and certified to as provided in this chapter" in the first sentence; and added "these additional signatures also to be verified and certified as provided in this chapter" to the end of the section.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places in the first sentence.

20-11-3. Submission to people. Upon the presentation to the lieutenant governor, at any time not less than four months before any general election, of an initiative petition, signed as herein provided by legal voters equal in number to 10% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected, proposing a law set forth therein and verified and certified to as provided in this chapter, the lieutenant governor shall submit the law so proposed to a vote of the people at the next ensuing general election.

History: L. 1917, ch. 56, § 3; C.L. 1917, § 2292; R.S. 1933 & C. 1943, 25-10-3; L. 1977, ch. 95, § 2; 1984, ch. 68, § 44.

Compiler's Notes.

The 1977 amendment inserted "and verified and certified to as provided in this chapter."

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

Recount of signatures.

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. Simons v. Monson (1938) 95 U 652, 83 P 2d 266.

Collateral References.

Statutes ⇐ 321.

82 CJS Statutes § 137.

42 AmJur 2d 689, Initiative and Referendum § 42.

20-11-4. Referendum by petition. Upon the presentation to the lieutenant governor, within 60 days after the final adjournment of the legislature, of a petition signed as herein provided by legal voters equal in number to 10% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected and verified and certified to as provided in this chapter, asking that any act, or section or part of any act, of the legislature be submitted to the people for their approval or rejection, the lieutenant governor shall submit such act, or section or part of such act, to the people for their approval or rejection at the next succeeding general election.

History: L. 1917, ch. 56, § 4; C.L. 1917, § 2293; R.S. 1933 & C. 1943, 25-10-4; L. 1977, ch. 95, § 3; 1984, ch. 68, § 45.

Compiler's Notes.

The 1977 amendment inserted "and verified and certified to as provided in this chapter."

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

Municipal referendum.

This section applies to a municipal referendum. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Collateral References.

Statutes ⇐ 344.

82 CJS Statutes §§ 122-131.

42 AmJur 2d 754 et seq., Initiative and Referendum § 22 et seq.

Referendum of question of repeal of statute in absence of constitutional requirement, 76 ALR 1062.

Withdrawal: right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefor, 126 ALR 1031, 27 ALR 2d 604.

20-11-5. Effective date of legislation. No act passed by the legislature shall go into effect until 60 days after the final adjournment of the session of the legislature which passed it, except laws passed by a two-thirds vote of the members elected to each house of the legislature. When a referendum petition has been filed, the act shall not go into effect, unless and until it shall be approved by a vote of the people at the next ensuing general election.

History: L. 1917, ch. 56, § 5; C.L. 1917, § 2294; R.S. 1933 & C. 1943, 25-10-5.

Municipal referendum.

This section makes it necessary that expedition should be used in submitting an ordinance to vote under this chapter. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Collateral References.

Statutes ⇐ 357.

82 CJS Statutes §§ 145, 146.

42 AmJur 2d 713, 714, Initiative and Referendum §§ 64, 65.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

20-11-6. Effective date of direct legislation — No veto. Any act or law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect five days after the date of the official proclamation of the vote by the governor. No act or law adopted by the people shall be subject to veto by the governor; but acts and laws approved by the people under the initiative or referendum provisions hereof may be amended by the legislature at any subsequent session thereof.

History: L. 1917, ch. 56, § 6; C.L. 1917, § 2295; R.S. 1933 & C. 1943, 25-10-6.

Collateral References.

Statutes ⇐ 375.

82 CJS Statutes §§ 145-147, 150.
42 AmJur 2d 798, 801-805, 809, 810, Initiative and Referendum §§ 56, 58-60, 63-65.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

20-11-7. Procedure for direct legislation -- Sponsors. The procedure to be followed in initiating or referring any act or law shall be as follows:

An application, hereinafter known as the application for "petition copies," having annexed thereto five copies of the proposed law, shall be filed in the office of the lieutenant governor. The application shall be signed by not fewer than five persons, hereinafter designated "sponsors." The sponsors shall sign their names to the application, together with their residences, including the street and number of such residences, if they can be so designated. The sponsors shall be qualified electors of the state, and shall acknowledge their signatures under oath before some officer competent to administer oaths who is personally acquainted with them; they shall likewise be required to swear before such officer that they have voted in some general election held within the county in which they reside within three years next preceding the date of their taking the oath, and such affidavit of electoral qualification must appear on the application containing their signatures or on a paper annexed thereto.

The lieutenant governor shall inform any person making inquiry in regard thereto of the number of votes cast for governor in the next preceding general election at which a governor was elected, as the same appears from the official canvass of such election.

History: L. 1917, ch. 56, § 7; C.L. 1917, § 2296; R.S. 1933 & C. 1943, 25-10-7; L. 1984, ch. 68, § 46.

Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

Sufficiency of application.

If information given is sufficient to enable person of ordinary intelligence to find place of residence and establish identity of sponsor of initiative petition, it is sufficient, though containing technical error. Halgren v. Welling (1936) 91 U 16, 63 P 2d 650.

Objection to absence of reference to initiative petition in sponsor's application on ground that such practice would render petition susceptible to withdrawal of proposed law and insertion of another was not well taken where no such withdrawal was alleged actually to have occurred. Halgren v. Welling (1938) 91 U 16, 63 P 2d 650.

Use of abbreviations by sponsors.

Use, on initiative petition, of abbreviation "S. L. C." after sponsor's street address to refer to Salt Lake City was only clerical or technical error. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Collateral References.

Statutes ⇐ 304, 305, 344, 345.
82 CJS Statutes §§ 122, 126.
42 AmJur 2d 672, Initiative and Referendum § 22.

20-11-8. Circulation sheets — Form of. All the signatures to any petition for initiative or referendum shall be placed on sheets of paper known as "circulation sheets," substantially 14 inches long and 11 inches wide. Such circulation sheets shall be ruled with a horizontal line 1-¼ inches from the top. The space above such line shall remain blank and shall be for the purpose of binding. The circulation sheet shall be vertically divided

into columns. The first column shall appear at the extreme left of the sheet, be ⅝ of an inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle; the next adjacent column shall be three inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)"; the next adjacent column shall be three inches wide headed, "Signature of Registered Voter"; the final column shall be 4-⅜ inches wide, headed "Street Address, City, State Zip Code".

The word "Warning" shall be printed or typed at the top of each circulation sheet under the horizontal line. Below the word "Warning" the following statement shall be either printed in not less than eight-point type, single leaded, or typed in equivalent size:

"It is a felony for any one to sign any initiative or referendum petit with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign such petition when he knows he is not a registered voter."

Each sheet shall contain under said printing or typing 25 horizontally ruled lines, 7/16 of an inch apart. Upon the back of each sheet shall be printed or typed the following:

State of Utah, County of _____

I, _____, of _____, hereby certify that I am a registered voter of this state, that all the names which appear on this sheet were signed by persons who professed to be the persons whose names appear thereon, and each of them signed his name thereto in my presence; I believe that each has printed and signed his name, and written his post-office address and residence correctly, and that each signer is a registered voter of the state of Utah.

_____

Subscribed and sworn to before me this _____ day of _____, _____.

_____

Notary public or other official title.

Upon payment of the fees hereinafter required the lieutenant governor shall furnish the number of circulation sheets requested in the application of the sponsors, and make them up into sets as hereinafter specified, according to instructions contained in the specifications.

History: L. 1917, ch. 56, § 8; C.L. 1917, § 2297; R.S. 1933 & C. 1943, 25-10-8; L. 1979, ch. 84, § 1; 1981, ch. 109, § 23; 1984, ch. 68, § 47.

Compiler's Notes.

The 1979 amendment substituted requirement that a voter certify circulation sheet before an officer competent to administer oaths for requirement that all signatures be made before such an officer and certified by him; inserted provision allowing petitions to be typewritten; and made minor changes in phraseology.

The 1981 amendment changed the specifications for circulation sheets; inserted provisions for printing the names of signatories; substituted "registered voter" for "legal voter" throughout the section; and made minor changes in phraseology, punctuation and style.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the last paragraph.

Address of signer of petition.

This section implies that post-office address and street number of signer of initiative petition should be written personally by the signer or under his authority. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Indication of post-office address or place of residence of signer of initiative petition by ditto marks is permissible. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Recount of signatures.

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. Simons v. Monson (1938) 95 U 552, 83 P 2d 266.

Collateral References.

Statutes ⇐ 306, 307, 309, 311, 312, 346, 347, 349, 351, 352.

82 CJS Statutes §§ 123-125, 131.

42 AmJur 2d 676-679, Initiative and Referendum §§ 27-30.

20-11-9. Form of initiative petition. The following shall be substantially the form of petition for any measure proposed by the initiative:

INITIATIVE PETITION

To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens and legal voters of the state of Utah, respectfully demand that the following proposed law (here follows proposed law) shall be submitted to the legal voters (or legislature) of the state of Utah for their (or its) approval or rejection at the regular election to be held (or session commencing) on the _____ day of _____, 19___; and each for himself says: I have personally signed this petition; I am a legal voter of the state of Utah; my residence and post-office address are correctly written after my name.

History: L. 1917, ch. 56, § 9; C.L. 1917, § 2298; R.S. 1933 & C. 1943, 25-10-9; L. 1984, ch. 68, § 48.

Compiler's Notes.

The 1984 amendment substituted "Lieutenant Governor" for "Secretary of State."

Initiative petition.

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. Simons v. Monson (1936) 95 U 552, 83 P 2d 266.

Collateral References.

Statutes ⇐ 304, 308.

82 CJS Statutes § 122.

42 AmJur 2d 672, Initiative and Referendum § 22.

20-11-10. Form of referendum petition. The following shall be substantially the form of petition for the referendum to the electors of any law passed by the legislature:

PETITION FOR REFERENDUM

To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens and legal voters of the state of Utah, respectfully order that senate (or house) bill No. _____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts of it which the referendum is sought), passed by the _____ session of the legislature of the state of Utah, be referred to the people of the state of Utah for their approval or rejection at the regular election to be held on the _____ day of _____, 19___; and each for himself says: I have personally signed this petition; I am a legal voter of the state of Utah; my residence and post-office address are correctly written after my name.

History: L. 1917, ch. 56, § 10; C.L. 1917, § 2299; R.S. 1933 & C. 1943, 25-10-10; L. 1984, ch. 68, § 49.

Compiler's Notes.

The 1984 amendment substituted "Lieutenant Governor" for "Secretary of State."

Collateral References.

Statutes ⇐ 344, 347.

82 CJS Statutes § 122.

42 AmJur 2d 672, Initiative and Referendum § 22.

20-11-11. Printing of petitions. Upon payment of the fees as hereinafter specified the lieutenant governor shall cause to be printed copies of the form of petition above set out, properly completed by inclusion of the matter required, sufficient in number to fulfill the requirement of the sponsors as designated by their application for petition copies.

In arriving at the number of circulation sheets and petition copies which they may require the sponsors shall specially take into consideration the provisions of Section 20-11-12.

History: L. 1917, ch. 56, § 11; C.L. 1917, § 2300; R.S. 1933 & C. 1943, 25-10-11; L. 1984, ch. 68, § 50.

Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

Mandamus.

Mandamus was granted to compel city recorder to solicit bids for printing two proposed ordinances to repeal prior ordinances providing for construction of municipal electric plant, where recorder's sole ground of refusal was that in his opinion the proposed ordinances were unconstitutional but such unconstitutionality did not appear on their face. Coleman v. Bench (1938) 96 U 143, 84 P 2d 412.

Sponsors supplying forms.

All of the detailed procedure provided for in the statute for obtaining these printed forms is mere formality since as long as the prescribed forms are supplied, who arranged for and the procedure followed in having them printed have no substantial effect on the result. The only purpose of the detailed procedure is for the benefit of the sponsors of a referendum. The sponsors have a right to waive these provisions and supply these printed forms through their own arrangements and at their own expense, which they must pay in any event. As long as the forms furnished meet the statutory requirements it is the duty of the recorder to accept them. Palmer v. Broadbent (1953) 123 U 580, 260 P 2d 581.

Collateral References.

Statutes ⇐ 304, 344.

82 CJS Statutes § 126.

20-11-12. Sections of circulation sheets. The petition, for purpose of circulation, may be divided into sections, each section to contain not more than 50 circulation sheets. No section, however, shall be circulated for signatures, unless it has attached to the front sheet thereof a certified petition copy, as described in Section 20-11-11. The sponsors shall set out in their application for petition copies the number of sections into which each petition is to be divided for circulation, and the number of circulation sheets which it is desired that each section shall contain, but the number

be no uniformity as to the number of circulation sheets contained in the sections. The lieutenant governor shall make up the sections as specified, attaching to the front of each section a petition copy as above described, and he shall securely bind together the sheets of each section at the top thereof in such a way that the sections may be conveniently opened for signing. He shall number each section and keep a record of the numbers of all sections delivered to the sponsors.

History: L. 1917, ch. 56, § 12; C.L. 1917, § 2301; R.S. 1933 & C. 1943, 25-10-12; L. 1984, ch. 68, § 51.

Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

20-11-13. Fees — Bids from printers — Duties of lieutenant governor. Upon filing the application for petition copies the sponsors shall pay a fee of $50 for all services to be performed in connection therewith. The lieutenant governor shall determine from said application (or if unable to so determine therefrom, shall notify the sponsors of such inability, whereupon they shall, by supplementary application, distinctly set out their instructions as to the same), the number of petition sections desired, and the number of circulation sheets required for each section. He shall forthwith upon such determination, which shall be made within three days after the filing of the application, solicit bids from not less than three competent printers for the printing of the required number of petition copies, together with the certificate of the lieutenant governor that the law contained thereon is a full, true, and correct copy of the law as proposed by the sponsors for initiation, or the true and correct number and title of the law as proposed for referendum. The body of the petition shall be printed in six-point type, single leaded, and the requisition for bids shall so specify. Within ten days after the filing of the application for the petition copies and circulation sheets the lieutenant governor shall notify one or more of the sponsors of the lowest and best bid received from the requisitions made, and he shall require the payment of that amount into his office before he shall proceed with the petition. The lieutenant governor shall also require the payment of $5 per 100 for all circulation sheets furnished to the sponsors. Upon payment of such amounts the lieutenant governor shall order from the printer submitting the lowest and best bid the required number of petition copies, containing his certificate thereon as above specified. The lieutenant governor shall, within ten days after the payment of the amounts above specified, make up into sections the petition copies and circulation sheets as above provided.

History: L. 1917, ch. 56, § 13; C.L. 1917, § 2302; R.S. 1935 & C. 1943, 25-10-13; L. 1977, ch. 95, § 4; 1984, ch. 68, § 52.

Compiler's Notes.

The 1977 amendment increased the filing fee from $10 to $50; and increased the payment required for circulation sheets furnished to sponsors from 50 cents per 100 to $5 per 100.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section.

Mandamus.

Mandamus was granted to compel city recorder to solicit bids for printing two proposed ordinances to repeal prior ordinances providing for construction of municipal electric plant, where recorder's sole ground of refusal was that in his opinion the proposed ordinances were unconstitutional but such unconstitutionality did not appear on their face. Coleman v. Bench (1938) 96 U 143, 84 P 2d 412.

Merits of proposed law.

The secretary of state cannot, nor can the supreme court in a mandamus proceeding, pass upon a question of merit, worth, wisdom, validity, or policy of any proposed law intended to be initiated. White v. Welling (1936) 89 U 335, 57 P 2d 703.

Ministerial duty of officer.

Duties imposed by this section are ministerial, and officer has no discretion, except insofar as to determine whether the document or instrument submitted and purporting to contain the proposed law to be initiated, has the semblance of a law, or is such a matter as is not properly the subject of the Initiative and Referendum Act. White v. Welling (1936) 89 U 335, 57 P 2d 703; Coleman v. Bench (1938) 96 U 143, 84 P 2d 412.

Officer cannot pass upon the constitutionality of any proposed law under procedure dealing with application for petition copies. If the proposed law shows on its face that it is unconstitutional, the supreme court would refuse to mandate the officer. White v. Welling (1936) 89 U 335, 57 P 2d 703; Coleman v. Bench (1938) 96 U 143, 84 P 2d 412.

Sponsor furnishing petitions.

Failure of the recorder to accept printed forms, which were printed under the sponsor's direction, did not render the sponsor's petition for referendum ineffective. The form of the petition copies, certificates and circulation sheets and their binding in 15 separate sections complied with the statute in every substantial detail. Where the sections of the printed forms which were circulated were in correct form except for absence of signature of the recorder, corporate seal of the city and certificate as to the title and number of the ordinance and since no one was adversely affected in reliance on the recorder's failure to act, the petition was not invalidated by her failure to do her duty for the sponsors had done all that they could do to make the petition effective and were not defeated by recorder's failure to act. Palmer v. Broadbent (1953) 123 U 580, 260 P 2d 581.

Type of print.

Where form was printed in 5 ½ point type instead of six-point type as required by this section, it was sufficient compliance with the statute. Palmer v. Broadbent (1953) 123 U 580, 260 P 2d 581.

20-11-14. Misconduct of electors and officers — Penalty. Every person who is a qualified elector of this state may sign a petition for the referendum or for the initiation of any measure upon which he is legally entitled to vote. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person knowingly and willfully violating any provision of this chapter, shall be punished by a fine not exceeding $500, or by imprisonment in the state prison not exceeding two years, or by both such fine and imprisonment.

History: L. 1917, ch. 56, § 14; C.L. 1917, § 2303; R.S. 1933 & C. 1943, 25-10-14.

20-11-15. Verification of petition — Clerical errors disregarded. Each and every sheet of the petition containing signatures shall be verified on the back thereof, as prescribed in the blank verification printed thereon, by the officer in whose presence the sheets were signed. The forms prescribed in this chapter are not mandatory, and if substantially

he petition shall be sufficient, notwithstanding clerical and merely technical errors.

History: L. 1917, ch. 56, § 15; C.L. 1917, 2304; R.S. 1933 & C. 1943, 25-10-15.

unicipal referendum.

This section applies to a municipal referendum. Accordingly, names of signers of petition must be checked. Allan v. Rasmussen (941) 101 U 33, 117 P 2d 287.

Collateral References.

Statutes ⇐ 312, 352.
82 CJS Statutes §§ 124, 125.
42 AmJur 2d 678, Initiative and Referendum § 30.

20-11-16. Sufficiency of signatures — Determination and remedies. ach section of the initiative or referendum petition when signed and veri- ed as herein provided shall be delivered not less than 150 days before any neral election to the county clerk of the county in which such section as circulated. The county clerk shall check all the names of the signers t less than 127 days before any general election against the official regisation lists of his county, and certify thereon whether or not each name that of a duly registered voter. He shall then transmit all of the sections the lieutenant governor, who shall check off from his record, as they e filed, the number of the sections of the petition so filed. After such tition is filed the lieutenant governor shall forthwith cause the number names appearing on each verified circulation sheet so certified by the unty clerks to be counted, and, if the number of names so counted equals exceeds the number of names required by the provisions of this chapter, shall mark upon the front of the petition the word "sufficient"; if the mes properly signed, verified, and certified to by the county clerks do t equal or exceed the number so required, he shall mark on the front ereof the word "insufficient." The lieutenant governor shall forthwith tify any one of the sponsors of his finding. In case his finding is "insuffint," the sponsors or any of them may demand in writing a recount of e names appearing on such petition in the presence of the sponsors or y of them. If the petition is found insufficient through lack of signers, e sponsors may, by paying the costs thereof, demand as many additional culation sheets as they may deem necessary, and the lieutenant governor all bind such new sheets to whatever sections of the petition the sponsor sponsors may designate, and he shall allow the sponsors to withdraw h section or sections for purposes of recirculation, keeping a record of numbers of all sections so withdrawn. If the lieutenant governor shall use to accept and file any petition for the initiative or for the referenn, any citizen may apply within ten days after such refusal to the preme court for a writ of mandamus to compel him to do so. If it shall decided by the court that such petition is legally sufficient, the lieuten- governor shall then file it, with a certified copy of the judgment ached thereto, as of the date on which it was originally offered for filing his office. On a s ing that any petition filed is not legally sufficient, court may enjoin the lieutenant governor and all other officers from

certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measures.

History: L. 1917, ch. 56, § 16; C.L. 1917, § 2305; R.S. 1933 & C. 1943, 25-10-16; L. 1977, ch. 95, § 5; 1984, ch. 68, § 53.

Compiler's Notes.

The 1977 amendment inserted "not less than 150 days before any general election" in the first sentence; inserted "all" in the second sentence; inserted "not less than 127 days before any general election" in the second sentence; substituted "certify" for "indicate" in the second sentence; deleted "verified" before "names appearing" near the beginning of the fourth sentence; inserted "so certified by the county clerks" and "and certified to by the county clerks" in the fourth sentence; and made minor changes in phraseology and punctuation.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section.

Addresses of signers.

Signatures on initiative petition, after which post-office addresses and street addresses or places of residence were omitted, could not be counted by secretary of state. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Delivery of petition.

The delivery to the county clerk, provided for by this section, must be performed by the sponsors. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Duty of county clerk.

Requirement that county clerk indicate on petition section sheets, opposite each signature, whether or not each name is that of a duly registered voter is mandatory. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Word "check," as used in this section, means that county clerk shall compare name of each signer on petition sheets against official registration lists of his county for purpose of determining whether or not signer is registered voter. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Where certificates of county clerks merely certified that petitioners' signatures were found correct, and no statement was made or attempted to be made that each name on attached petition was or was not that of a duly registered voter, secretary of state was without jurisdiction to find that number of qualified signers on petition as a whole was sufficient. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

The duty of determining the validity of the names on the circulation sheet is reposed upon the county clerk, and the secretary of state may rely upon the certification by the county clerk. Cope v. Toronto (1958) 8 U 2d 255, 332 P 2d 977.

Duty of the secretary of state.

Where the secretary of state has relied upon the circulation sheets certified to him by the county clerk and followed the procedure set out by law for having the proposed act printed on the ballots, the law does not grant authority to the supreme court to issue a writ of mandamus to direct him to undo that which he has done. Cope v. Toronto (1958) 8 U 2d 255, 332 P 2d 977.

Effect of 1977 amendment.

The 1977 amendment to this section did not expressly or impliedly repeal 20-11-24, nor did it authorize the filing of the referendum petition before the completion of the signature check and certification. Riverton Citizens for Constitutional Government v. Beckstead (1981) 631 P 2d 885.

Filing of petition.

This section does not require city recorder to file petition for referendum where question to be submitted has ceased to exist. Keigley v. Bench (1936) 90 U 569, 63 P 2d 262.

If petition be filed within the time prescribed, the filing officer must not wait until expiration of such time to make his count, for if the number of signers be found insufficient by such officer, the sponsors may have additional circulation sheets issued in order to recirculate the petition. This recirculation for the purpose of securing additional qualified signers may not be done after the time for filing has expired. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Recount of names.

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. Simons v. Monson (1938) 95 U 552, 83 P 2d 266.

Requirement as to checking.

In case of a municipal referendum, the checking provided for by this section is a condition prerequisite to a legally sufficient petition. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

"Verified names."

This phrase means names verified by the county clerk. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Withdrawal of names generally.

Person who has signed petition may, at any time before petition has been acted upon, withdraw his name, and if timely done, his name should not be counted. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Timely personal appearance with request made to proper officer, board or individual with identity established either by personal knowledge or by proof by one familiar with facts, or written withdrawal accompanied by proof of identity by affidavit either of signer or someone who knows identity of signatures, is sufficient to permit withdrawal of signatures from petition. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Collateral References.

Statutes ⇐ 314-316, 354-356.

82 CJS Statutes §§ 124, 125, 127-129.

42 AmJur 2d 681-688, Initiative and Referendum §§ 32-40.

Time within which officer must perform duty to pass upon sufficiency of initiative, referendum or recall petition, 102 ALR 51.

20-11-17. Ballot title — Duties of attorney general and Office of Legislative Research and General Counsel. When an initiative petition shall be declared to be sufficient by the lieutenant governor he shall forthwith transmit to the attorney general a copy of the law so proposed for initiation, and within ten days thereafter the attorney general shall provide and return to the lieutenant governor a ballot title for such measure. Whenever a referendum petition is declared sufficient, the lieutenant governor shall transmit a copy of the petition to the Office of Legislative Research and General Counsel, who shall prepare and return to him within 15 days a ballot title for the referendum. The ballot title may be distinct from the legislative title of the measure, and shall express, in not exceeding 100 words, the purpose of the measure. The ballot title shall be printed, with the number of the measure, as determined by the Office of Legislative Research and General Counsel, on the official ballot. In making such ballot title the Office of Legislative Research and General Counsel shall to the best of its ability give a true and impartial statement of the purpose of the measure, and in such language that the ballot title shall not be intentionally an argument, or likely to create prejudice, either for or against the measure. A copy of every ballot title upon being filed by the Office of Legislative Research and General Counsel with the lieutenant governor shall forthwith be served upon any of the sponsors of the petition by the lieutenant governor; such service may be by mail or telegraph. If the ballot title so furnished by the Office of Legislative Research and General Counsel is unsatisfactory or does not comply with the requirements of this section, upon motion of at least three of the sponsors of the petition, an appeal may be taken from the decision of the Office of Legislative Research and General Counsel to the supreme court. The supreme court shall thereupon examine such measures and hear arguments, and in its decision thereon shall certify to the lieutenant governor a ballot title for the measure in accord with the intent of this section. The lieutenant governor shall have the title thus certified to him certified to the county clerks to be printed on the official ballot; provided, that nothing in this chapter shall be construed to require the lieutenant governor to have the title of any proposed law for initiation or of any measure for referendum, printed on the official ballot, unless a sufficient petition as herein provided shall have been filed in his office at least 105 days before any general election at which the proposed law or measure is to be submitted.

History: L. 1917, ch. 56, § 17; C.L. 1917, § 2306; R.S. 1933 & C. 1943, 25-10-17; L. 1975, ch. 57, § 13; 1984, ch. 68, § 54.

Compiler's Notes.

The 1975 amendment substituted "an initiative petition" for "the petition" in the first sentence; deleted "or referendum" after "initiation" in the first sentence; inserted the second sentence pertaining to a referendum petition; inserted "as determined by the legislative council" in the fourth sentence; substituted "legislative council" for "attorney general" in the fifth, sixth and seventh sentences; substituted "or of any measure for referendum" for "or the number of any measure for referendum" in the last sentence; and substituted "105 days" for "50 days" in the last sentence.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section; and substituted "Office of Legislative Research and General Counsel" for "legislative council" throughout the section.

Repealing Clause.

Section 14 of Laws 1975, ch. 57 provided. "Sections 20-3-41.1 and 20-3-41.2, Utah Code Annotated 1953, as enacted by chapter 39, Laws of Utah 1967, and section 20-11-18, Utah Code Annotated 1953, as amended by chapter 36, Laws of Utah 1953, are repealed."

Collateral References.

Statutes ⇐ 319, 320, 359, 360.

82 CJS Statutes §§ 138-140.

42 AmJur 2d 693, Initiative and Referendum § 46.

Construction and application of constitutional or statutory requirement as to short title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 555.

20-11-18. Repealed.

Repeal.

Section 20-11-18 (L. 1917, ch. 56, § 18; C.L. 1917, § 2307; R.S. 1933 & C. 1943, 25-10-18; L. 1953, ch. 36, § 1), relating to publication of initiative or referendum information, was repealed by Laws 1975, ch. 57, § 14. For present provisions, see 20-11a-1 et seq.

20-11-19. Manner of voting. The manner of voting upon measures submitted to the people shall be as follows:

The number and ballot title as herein provided for shall be printed on the official ballot, with the words "For" and "Against" immediately to the right thereof, each followed by a square in which the elector may place a cross to indicate his vote. Electors desiring to vote "for" shall place a cross within the square following the word "for," and those desiring to vote "against" shall place a cross within the square following the word "against."

History: L. 1917, ch. 56, § 19; C.L. 1917, § 2308; R.S. 1933 & C. 1943, 25-10-19.

20-11-20. Return and canvass — Conflicting measures — Law effective on proclamation. The votes on measures and questions submitted to the people shall be counted, canvassed, and returned by the regular boards, judges, clerks, and officers as votes for candidates are counted, canvassed, and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the lieutenant governor in the

manner provided by Section 20-8-8 for abstracts of votes for state officers. The lieutenant governor shall certify to the governor the vote for and against such measures and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against each measure and question, and declaring such measures as are approved by the greatest number of affirmative votes, provided such number is a majority of those voting thereon, to be in full force and effect as the law of the state of Utah. When the governor is of the opinion that two measures, or that parts of two measures, approved by the people at the same election are entirely in conflict and opposed, he shall proclaim that measure to be law which has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received. Within ten days after such proclamation any qualified voter, who shall have signed the petition to submit the measure which is declared by the governor to be superseded by another measure approved at the same election, may apply to the supreme court to review the governor's decision. The court shall forthwith consider the matter and decide whether or not such measures are in conflict, and shall certify its decision, within ten days after the matter is submitted to it for decision, to the governor. The governor shall, within 30 days after his previous proclamation, proclaim all those measures approved by the people as law which the supreme court has decided not to be in conflict, and of all those which the supreme court shall have decided to be in conflict he shall proclaim as law the one which has received the greatest number of affirmative votes, regardless of difference in majorities.

History: L. 1917, ch. 56, § 20; C.L. 1917, § 2309; R.S. 1933 & C. 1943, 25-10-10; L. 1984, ch. 68, § 55.

Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the first and second sentences.

Collateral References.

Statutes ⇐ 322, 362.

82 CJS Statutes §§ 147, 148.

42 AmJur 2d 713, 714, Initiative and Referendum §§ 63-65.

Determination of canvassing boards or election officials as regards counting or exclusion of ballots as subject of review by mandamus, 107 ALR 618.

20-11-21. Direct legislation in counties, cities, and towns. Subject to the provisions of this chapter, the legal voters of any county, city, or town, in such numbers as required in this chapter, may initiate any desired legislation and cause the same to be submitted to the governing body or to a vote of the people of the county, city, or town for approval or rejection, or may require any law or ordinance passed by the governing body of the county, city, or town to be submitted to the voters thereof before the law or ordinance shall take effect.

History: L. 1917, ch. 56, § 21; C.L. 1917, 2310; R.S. 1933 & C. 1943, 25-10-21; L. 1981, ch. 102, § 1.

Compiler's Notes.

The 1981 amendment inserted "county" throughout the section; substituted "governing body" for "law-making body" in two places; and made minor changes in phraseology and punctuation.

Construction and application.

An ordinance adopted by city commission vacating city street must be submitted to vote of people before it becomes effective. Provo City v. Denver & R. G. W. R. Co. (1946) 156 F 2d 710, certiorari denied 329 US 764, 91 L Ed 658, 67 S Ct 124, citing Keigley v. Bench (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

Legislative or administrative powers.

A resolution passed by city board of commissioners directing mayor to execute an acceptance of offer from bond brokers to buy city's bonds is legislative in character; therefore, the approval or rejection of the resolution is proper subject matter for referendum. The city recorder is required to accept and file the resolution as a mere ministerial duty; he is not required to pass upon the validity of the resolution. Keigley v. Bench (1936) 90 U 569, 63 P 2d 262.

Initiated ordinance which authorized executive department of city to contract for erection and construction of electric power plant and distribution system with independent contractor on a cost plus basis, under and subject to terms and limitations fixed in ordinance, was a proper exercise of the legislative power by the people through the initiative. Utah Power & Light Co. v. Provo City (1937) 94 U 203, 74 P 2d 1191, certiorari denied 305 US 628, 83 L Ed 402, 59 S Ct 92, distinguished in 2 U 2d 319, 273 P 2d 174.

This section limits the applicability of a referendum to laws and ordinances passed by the law-making body of a city or town, and section applies only to such laws, ordinances, resolutions or motions that are legislative in character, and does not apply to those administrative in character. Keigley v. Bench (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

Provisions of proposed ordinance which related to the recall and refunding of bonds authorized by previous ordinance, and to change in dates of the bonds and date of principal and interest payments, were administrative in their nature and were not subject to referendum, but provision which provided for a 20-year plan of refunding, instead of a 15-year period, constituted a definite change in financial policy which was legislative in its nature and required submission to the electorate. Keigley v. Bench (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

Since initiative and referendum laws apply only to legislative matters, the issue of the salaries of policemen and firemen could not be referred to the electorate where, by its nature, and under the terms of the city charter, the issue was administrative in character. Shriver v. Bench (1957) 6 U 2d 329, 313 P 2d 475.

Repeal of council-manager charter of city.

Even though there is no direct or express constitutional or statutory provision or council-manager charter provision that the council-manager charter of a second class city is repealable, the people have an inalienable right to repeal a charter which they had a right to adopt, and an ordinance providing for the repeal of a council-manager charter and the establishment of a commission form of government for a second class city was valid. Provo City v. Anderson (1961) 12 U 2d 417, 367 P 2d 457.

Zoning ordinances.

Although this section and 20-11-23 set forth the manner of exercising the initiative privilege, the electors may not initiate any ordinance under it. Thus the electors could not by initiative ordinance rezone a city since such procedure would not comply with the zoning statute under which they claim their power to zone, and in effect it would be attacking collaterally the very statute under which they claimed their power to zone. Until the general law governing the processes of zoning was affected by repeal or amendment by the legislature, or by referendum or initiative by the people, it guided the processes of the cities and directed the means by which it was to be accomplished. Dewey v. Doxey-Layton Realty Co. (1954) 3 U 2d 1, 277 P 2d 805.

The original enactment of a zoning ordinance would generally be subject to referendum; however, ordinances implementing the basic zoning enactment, such as by exceptions and variances, would generally not be subject to referendum. Wilson v. Manning (1982) 657 P 2d 251.

Collateral References.

42 AmJur 2d 655, Initiative and Referendum § 7.

Law Reviews.

The Local Initiative — A Proper Sounding Board for National Issues?, 1968 Utah L. Rev. 464.

20-11-22. Petitions — Number of signers. (1) All initiative and referendum petitions in counties, cities, and towns to be mandatory must

gned by legal voters thereof equal in number to the following percentages all the votes cast in the county, city, or town for all candidates for governor at the next preceding election at which a governor was elected:

(a) If the total number of such votes exceeds 10,000, the petition shall e signed by 10%.

(b) If the total number of such votes does not exceed 10,000, but is more ıan 2,500, the petition shall be signed by 12 ½%.

(c) If the total number of such votes does not exceed 2,500, but is more ıan 500 the petition shall be signed by 15%.

(d) If the total number of such votes does not exceed 500, but is more ıan 250, the petition shall be signed by 20%.

(e) If the total number of such votes does not exceed 250, the petition ıall be signed by 30%.

History: L. 1917, ch. 56, § 22; C.L. 1917, 2311; R.S. 1933 & C. 1943, 25-10-22; L. 1981, . 102, § 2.

ompiler's Notes.

The 1981 amendment inserted the subsecon and subdivision designations; inserted ferences to counties throughout the section; ıd made minor changes in phraseology and nctuation.

Collateral References.

Statutes ⇐ 309, 349.

82 CJS Statutes § 123.

42 AmJur 2d 676, Initiative and Referendum § 27.

Right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefor, 126 ALR 1031, 27 ALR 2d 604.

20-11-23. Procedure — Arguments. (1) In all counties, cities, and ›wns the manner of exercising the initiative and referendum powers eserved by the constitution to the people thereof shall be similar to the rocedure prescribed by this chapter for the state initiative and referenum, and the duties required of the county clerk and the lieutenant goveror by this chapter as to state legislation shall be performed as to such ounty or municipal legislation by the county clerk, city recorder, or town lerk, as the case may be; the duties required of the governor shall be perormed by the chief executive officer of the county, mayor, or president of he board of town trustees, as the case may be; and the duties required f the attorney general shall be performed by the county, city, or town ttorney, as the case may be. The provisions of this chapter shall apply n every county, city, and town in all matters concerning the operation of he initiative and referendum in its county or municipal legislation. The rinting and binding of the "local voter information pamphlet" shall be aid for by the county, city, or town; distribution of the pamphlets shall e made to every voter in the county, city, or town, so far as possible, by he clerk or recorder, as the case may be, either by mail or carrier, not ess than eight days before the election at which the measures are to be oted upon. Arguments supporting county or municipal measures shall be iled with the clerk or recorder, as the case may be, not less than 30 days efore the election at which they are to be voted upon; and opposing argunents shall be filed not less than 30 days before the election. It is intended

to make the procedure in county or municipal legislation as nearly as practicable the same as the initiative and referendum procedure for measures relating to the people of the state at large.

(2) The arguments regarding the measures described in Subsection (1) shall be prepared as follows:

(a) The arguments for and against each measure shall not exceed 300 words in length and shall be printed on the same sheet of paper upon which the proposed measure is also printed, except that if the proposed measure exceeds 1,000 words in length the clerk or recorder, as the case may be, may provide a synopsis of 1,000 words or less of the proposed measure. Where a synopsis is provided, it shall be noted where a complete copy of the proposed measure is available for public review.

(b) The arguments for the measure shall be prepared by the sponsors whether of the governing body or of a voter or voter group, except that no more than five names shall appear as sponsor. The arguments against the measure shall be prepared by opponents from among the governing body, if there be any, or from among voters requesting permission of the governing body to prepare these arguments. If more than one person or group desires to submit arguments for or against the measure, the governing body shall make the final designation, except that sponsors shall always have priority in making the argument for a measure and members of governing bodies shall always have priority over others. The requests to prepare the arguments must be presented to the governing body at least 45 days before the election at which the proposed measure is to be voted upon.

(3) The following statement shall be printed on the front cover or the heading of the first page of the printed arguments:

"The arguments for or against the proposed measure(s) are the opinions of the authors."

History: L. 1917, ch. 56, § 23; C.L. 1917, § 2312; R.S. 1933 & C. 1943, 25-10-23; L. 1981, ch. 102, § 3; 1981, ch. 105, § 1; 1984, ch. 68, § 56.

Compiler's Notes.

The 1981 amendment by chapter 102 included counties with cities and towns as having initiative and referendum powers.

The 1981 amendment by chapter 105 also included counties with cities and towns as having initiative and referendum powers; increased the time for filing opposing arguments from 20 to 30 days before the election; and added subsecs. (2) and (3).

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the first sentence of subsec. (1).

Effective Date.

Section 2 of Laws 1981, ch. 105 provided: "This act shall take effect on May 15, 1981."

Cross-References.

Voter information pamphlets, 20-11a-1 et seq.

Conditions precedent.

Under this section and 20-11-16, in the case of a referendum of an ordinance, the checking by the county clerk is an essential element to a petition or a section thereof requisite to require filing by the officer and require him to proceed. Allan v. Rasmusser (1941) 101 U 33, 117 P 2d 287.

Words and phrases defined.

Deviation from state initiative and referendum procedure, which might be suggested by the use of the word "similar," is limited by requirement that procedure be "as nearly

as practicable" the same as that prescribed for reference of an act of the legislature. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Collateral References.

Construction and application of constitutional or statutory requirement as to short title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 555.

Time within which officer must perform duty to pass upon sufficiency of initiative, referendum or recall petition, 102 ALR 51.

20-11-24. Time for filing referendum petitions. Referendum petitions against any ordinance, franchise, or resolution passed by the governing body of a county, city, or town shall be filed with the clerk or recorder, as the case may be, within 30 days after the passage of the ordinance, resolution, or franchise.

History: L. 1917, ch. 56, § 24; C.L. 1917, § 2313; R.S. 1933 & C. 1943, 25-10-24; L. 1981, ch. 102, § 4.

Compiler's Notes.

The 1981 amendment inserted "county"; inserted "as the case may be"; and made minor changes in phraseology and punctuation.

Cross-References.

When ordinances take effect, 10-5-705, 10-3-712.

Filing requirement.

The 1977 amendment to 20-11-16 did not expressly nor impliedly repeal the 30-day filing requirement of this section, nor did it authorize the filing of the referendum petition before the completion of the signature check and certification. Riverton Citizens for Constitutional Government v. Beckstead (1981) 631 P 2d 885.

Municipal referendum.

Under this and other sections of this chapter, a checking of the petition is a condition precedent to a legally sufficient petition in case of a municipal referendum. Allan v. Rasmussen (1941) 101 U 33, 117 P 2d 287.

Original mandamus proceedings.

In original mandamus proceedings to compel city recorder to receive and file petition for referendum of a resolution of board of commissioners, the question of validity of resolution is not before the supreme court for review. However, upon repeal of resolution, right to require referendum election ceases. Keigley v. Bench (1936) 90 U 569, 63 P 2d 262.

Collateral References.

Statutes ⇐ 354.

82 CJS Statutes § 129.

42 AmJur 2d 682, 683, Initiative and Referendum §§ 33, 34.

20-11-25. Submission to people. If any ordinance shall be proposed by initiative petition, the petition shall be filed with the clerk or recorder, as the case may be, and he shall transmit the same at session of the governing body. The governing body shall either reject the same as proposed within 30 days thereafter, and, if the governing body shall reject the proposed ordinance or amendment or shall take no action thereon, then the clerk or recorder, as the case may be, shall submit the same to the voters of the county, city, or town at the next ensuing countywide or municipal election held therein not less than 90 days after the same was last presented to the governing body. The governing body may ordain the ordinance or amendment and refer it to the people, or it may ordain the ordinance without referring it to the people, but in that case it shall be subject to referendum petition in like manner as other ordinances. If the governing body shall reject the ordinance or amendment or take no action thereon, it may ordain a competing ordinance or amendment, which shall

be submitted by the clerk or recorder, as the case may be, to the people of the county, city, or town at the same election at which the initiative proposal is submitted. This competing ordinance or amendment, if any, shall be prepared by the governing body and ordained within 30 days allowed for its action on the measure proposed by initiative petition. If conflicting ordinances shall be submitted to the people at the same election and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measure may not have received the greatest majority. The governing body may by ordinance order special elections to vote on such county or municipal measures.

History: L. 1917, ch. 56, § 25; C.L. 1917, § 2314; R.S. 1933 & C. 1943, 25-10-25; L. 1981, ch. 102, § 5.

Compiler's Notes.

The 1981 amendment inserted references to county throughout the section; and made minor changes in phraseology and punctuation.

Collateral References.

Statutes ⇐ 375.

82 CJS Statutes § 136 et seq.

42 AmJur 2d 689 et seq., Initiative and Referendum § 42.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

CHAPTER 11a

VOTER INFORMATION ON LEGISLATION

20-11a-1. Measures to be submitted to voters, referendum measures — Preparation of argument for adoption. Whenever the legislature submits any measure to the voters of the state or whenever an act of the legislature is referred to the voters by referendum petition, the sponsor of the measure or act and one member of either house who voted with the majority on the submission of the measure or on the act shall be appointed by the presiding officer of the house of origin of the measure to draft an argument for the adoption of the measure. This argument shall not exceed 500 words in length. If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments

ATTACHMENT B

THE BOOK OF THE STATES

1990-91 EDITION

Volume 28

The Council of State Governments
Lexington, Kentucky

1984 AND 1988

1980		
ge tion	Number registered	Number voting (b)
57	2,132	1,342
77	259	158
70	1,121	874
28	1,186	838
48	1,1361	8,587
23	1,434	1,184
04	1,706	1,406
32	301	236
78	4,810	3,687
70	2,377	1,597
57	403	303
46	581	437
35	6,230	4,740
92	2,944	2,242
99	1,717	1,318
10	1,291	980
36	1,759	1,295
19	2,015	1,549
11	760	523
40	2,065	1,540
78	3,153	2,524
20	5,726	3,910
13	2,353	2,052
23	1,482	893
78	2,841	2,100
60	496	364
53	856	641
32	297	248
72	523	384
12	3,766	2,976
0	653	457
13	7,898	6,202
4	2,775	1,856
7	(c)	302
14	5,887	4,284
77	1,458	1,150
9	1,569	1,182
17	5,754	4,562
0	531	416
5	1,256	894
8	448	328
3	2,149	1,618
0	6,640	4,542
5	782	604
0	312	213
0	2,302	1,866
0	2,182	1,742
0	1,035	738
5	(c)	2,273
2	219	177
5	289	175

ots cast in presidential race.
cluded from totals for persons

Table 5.14
STATE INITIATIVES: REQUESTING PERMISSION TO CIRCULATE A PETITION

State	Applied to (a)		Signatures required to request a petition (b)		Request submitted to	Request form furnished by (c)	Restricted subject matter (d)	Individual responsible for petition		Financial contributions reported (e)	Deposit required (f)
	Amendment	Statute	Amendment	Statute				Title	Summary		
Alabama	...	...	...	...	...	...	...	...	...	...	...
Alaska	...	D	...	100	LG	SP	Y	LG	LG	Y	$100 00
Arizona	D	D	15% EV	10% EV	SS	ST	N	...	...	Y	...
Arkansas	D	D	...	...	AG	SP	N	AG	AG	N	...
California	D	D	...	...	AG	SP	N	AG	AG	Y	$200 00
Colorado	D	D	...	...	...	...	N	(g)	(g)	Y	...
Connecticut	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Florida	D	...	...	...	SS	SP	N	P	P	Y	...
Georgia	...	...	...	...	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...	...	...	...	...
Idaho	...	D	...	20	SS	SP	N	AG	AG	Y	...
Illinois	D	...	...	...	...	...	...	...	...	...	...
Indiana	...	...	...	...	...	...	...	...	...	...	...
Iowa	...	...	...	...	...	...	...	...	...	...	...
Kansas	...	...	...	...	...	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...	...	...	...	...	...
Maine	...	I	...	...	...	SP	Y	P	P	Y	...
Maryland	...	...	...	...	...	...	...	...	...	...	...
Massachusetts	I	I	10	10	AG	ST	Y	AG	AG	Y	...
Michigan	D	I	...	...	...	...	Y	...	...	Y	...
Minnesota	...	...	...	...	...	...	...	...	...	...	...
Mississippi	...	...	...	...	...	...	...	...	...	...	...
Missouri	D	D	...	...	SS	SP	Y	SS,AG	...	Y	...
Montana	D	D	...	...	SS	SP	Y	AG	AG	Y (h)	...
Nebraska	D	D	...	...	SS	SP	Y	AG	AG	Y	N
Nevada	D	I	...	...	SS	SP	Y	P	P	Y (i)	...
New Hampshire	...	...	...	...	...	...	...	...	...	...	...
New Jersey	...	...	...	...	...	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...	...	...	...	...	...
New York	...	...	...	...	...	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...	...	...	...	...	...
North Dakota	D	D	25	25	SS	SP	Y	SS,AG	SS,AG	Y (e)	...
Ohio	D	I	...	...	SS	SP	Y	...	AG	Y	...
Oklahoma	D	D	...	...	SS	SP	N	AG	AG	Y	...
Oregon	D	D	25	25	SS	SP	N	AG	AG	Y	...
Pennsylvania	...	...	...	...	...	...	...	...	...	...	...
Rhode Island	...	...	...	...	...	...	...	...	...	...	...
South Carolina	...	...	...	...	...	...	...	...	...	...	...
South Dakota	D	D	...	...	SS	SP	N	P	...	Y	...
Tennessee	...	...	...	...	...	...	...	...	...	...	...
Texas	...	...	...	...	...	...	...	...	...	...	...
Utah	...	I,D	...	5	LG	SP	N	LG	LG	N	...
Vermont	...	...	...	...	...	...	...	...	...	...	...
Virginia	...	...	...	...	...	...	...	...	...	...	...
Washington	...	I,D	...	1	SS	SP	N	AG	AG	Y	N
West Virginia	...	...	...	...	...	...	...	...	...	...	...
Wisconsin	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	D	...	100	SS	SP	Y	AG,SS	AG,SS	Y	$100.00

Source: State election administration offices.
Key:
... — Not applicable
D — Direct
I — Indirect
EV — Eligible voters
LG — Lieutenant Governor
SS — Secretary of State
AG — Attorney General
P — Proponent
ST — State
SP — Sponsor
Y — Yes
N — No

(a) An initiative may provide a Constitutional Amendment or develop a new statute, and may be formed either directly or indirectly. The direct initiative allows a proposed measure to be placed on the ballot after a specific number of signatures have been secured on a petition. The indirect initiative must first be submitted to the legislature for decision after the required number of signatures have been secured on a petition, prior to placing the proposed measure on the ballot.

(b) Prior to circulating a statewide petition, a request for permission to do so must first be submitted to a specified state officer.

(c) The form on which the request for petition is submitted may be the responsibility of the sponsor or may be furnished by the state.

(d) Restrictions may exist regarding the subject matter to which an initiative may be applied. The majority of these restrictions pertain to the dedication of state revenues and appropriations, and laws that maintain the preservation of public peace, safety, and health.

(e) In some states, a list of financial contributors and the amount of their contributions must be submitted to the specified state officer with whom the petition is filed. In North Dakota, if over $100 in aggregate for calendar year.

(f) A deposit may be required after permission to circulate a petition has been granted. This amount is refunded when the completed petition has been filed correctly.

(g) Title Setting Board—SS, AG, Director of Legislative Legal Services.

(h) Contributions reported to Commissioner of Political Practices; petitions filed with SS.

(i) Expenditures made in excess of $500.00 for the purpose of advocating the passage or defeat of the measure must be reported.

Table 5.15
STATE INITIATIVES: CIRCULATING THE PETITION

State or other jurisdiction	Basis for signatures: Amendment (see key below)	Basis for signatures: Statute	Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election: Amendment	Days prior to election: Statute
Alabama	...	10% TV from 2/3 ED	1 year	Y	LG		
Alaska		10% VG	2 years	Y	SS	4 months	4 months
Arizona	15% VG				SS		
Arkansas	10% EwG, 5% each from 15 co	8% VEG, 5% each from 15 co					
California	8% VG	5% VG	150 days	Y	SS	131 days	131 days
Colorado	5% VSS	5% VSS	6 months		SS	3 months	
Connecticut	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...
Florida	8% VEP, 8% from 1/2 CD	...	...	...	SS	91 days	...
Georgia	...	...	...	...	...	...	...
Hawaii	...	...	...	...	SS	...	4 months
Idaho		10% VG	2 years	Y	SS	6 months	
Illinois	8% VG	...	...	...	...	...	...
Indiana	...	...	...	...	...	...	...
Iowa	...	...	...	...	...	...	...
Kansas	...	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...	...
Louisiana	...	10% VG	1 year	...	SS	...	...
Maine	...	...	...	...	...	...	...
Maryland	...	...	...	...	...	...	...
Massachusetts	3% VG, no more than 25% from 1 co.	3% VG, no more than 25% from 1 co. (c)	...	Y	SS	...	...
Michigan	10% VG	8% VG	(d)	...	SS	(e)	(e)
Minnesota	...	...	...	...	...	...	...
Mississippi	...	...	...	...	...	...	...
Missouri	8% VG, 8% each from 2/3 CG	5% VG, 5% each from 2/3 CD	12 months	Y	SS	4 months	...
Montana	10% VG, 10% each from 2/3 SLD	5% VG, 5% each from 1/3 SLD	1 year	Y	SS	(f)	(f)
Nebraska	10% EV, 5% each from 2/5 co.	7% EV, 5% each from 2/5 co	...	Y	SS	4 months	4 months
Nevada	10% TV, 10% each from 3/4 co.	10% TV, 10% each from 3/4 co.	(g)	...	SS	30 days prior to LS	30 days
New Hampshire	...	...	...	...	...	...	...
New Jersey	...	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...	...
New York	...	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...	...
North Dakota	4% resident population	2% resident population	...	...	SS	90 days	90 days
Ohio	10% VG, 1.5% each from 1/2 co.	3% VG, 1.5% each from 1/2 co. (h)	...	...	SS	90 days	90 days
Oklahoma	15% VH	8% VH	90 days	N	SS	...	...
Oregon	8% VG	6% VG	...	...	SS	4 months	4 months
Pennsylvania	...	...	...	...	...	...	...
Rhode Island	...	...	...	...	...	...	...
South Carolina	...	...	...	...	...	...	...
South Dakota	10% VG	5% VG	1 year	...	SS	one year	189 days
Tennessee	...	...	...	...	...	...	...
Texas	...	10% VG, 10% each from 1/2 co.	2 years	Y	LG	...	150 days
Utah	...	...	...	...	...	...	...
Vermont	...	...	...	...	...	...	...

STATE INITIATIVES: CIRCULATING THE PETITION—Continued

State or other jurisdiction	Basis for signatures: Amendment (see key below)	Basis for signatures: Statute	Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election: Amendment	Days prior to election: Statute
Virginia	...	...	...	...	...	...	...
Washington	...	8% VG	(b)	Y	SS	...	(i)
West Virginia	...	...	...	...	...	...	...
Wisconsin	...	...	...	...	...	...	...
Wyoming	...	15% TV	18 months	Y	SS	...	60 days

Source: State election administrative offices.

Key:
... — Not applicable
VG — Total votes cast for the position of governor last election
EV — Eligible voters
VH — Total votes cast for the office receiving the highest number of votes cast last general election
TV — Total voters in last general election
ED — Election district
co. — county
SS — Secretary of State
LS — Legislative Session

(a) The petition circulation period begins when petition forms have been approved and provided to sponsors. Sponsors are those individuals granted permission to circulate a petition, and are therefore responsible for the validity of each signature on a given petition.

(b) Should an individual wish to remove his/her name from a petition, a request to do so must be submitted in writing to the state officer with whom the petition is filed.

(c) First Wednesday in December.

(d) In Michigan, signatures dated more than 180 days prior to the filing date are ruled invalid.

(e) Constitutional Amendment—not less than 120 days prior to the next general election; statute—approximately 160 days prior to the next general election.

(f) Second Friday of the fourth month prior to election (3 1/2 months).

(g) Constitutional Amendment—276 days; Amend or create a statute—291 days.

(h) Direct—6 months; Indirect—10 months.

(i) Direct—4 months; Indirect—10 months prior to legislative session.

Table 5.16
STATE INITIATIVES: PREPARING THE INITIATIVE TO BE PLACED ON THE BALLOT

State	Signatures verified by who (a)	Within how many days after filing	Number of days to complete a petition that is: Incomplete (b)	Not accepted (c)	Penalty for falsifying petition (denotes fine, jail term)	Petition certified (d) by who
Alabama						
Alaska	Director of Elections	60 days	90 days		Class B misdemeanor	LG
rizona	SS, county recorder	10 days (g)	10 days		Class 1 misdemeanor	SS
rkansas		15 days	30 days	15 days	$10-$100.00, 1-5 yrs	SS
California	Clerk or registrar of voters	25-105 days				
Colorado	SS	21 days				SS
Connecticut						
Delaware						
Florida	Supervisor of elections					SS
Georgia						
Hawaii						
Idaho	County clerk			10 days	$5,000.00, 2 yrs	SS
Illinois	SBE and Election Auth	14 days				SBE
Indiana						
Iowa						
Kansas						
Kentucky						
Louisiana						
Maine		25 days				SS
Maryland						
Massachusetts	Local board of registrar	2 weeks	4 weeks (e)			
Michigan	City and township clerks					
Minnesota						
Mississippi						
Missouri	SS, local election auth		Prior to filing deadline		Class A misdemeanor	SS
Montana	County registrar	4 weeks			$500.00, 6 months	SS
Nebraska	County clerk or election comm	40 days		10 days	Class IV felony	SS
Nevada	County clerk or registrar	20-50 days			$10,000.00,1-10 yrs	SS
New Hampshire						
New Jersey						
New Mexico						
New York						
North Carolina						
North Dakota	SS	35 days	20 days			SS
Ohio	County board of elections		10 days		$1,000.00, 6 months	SS
Oklahoma						
Oregon	SS, county elections official	15 days				SS
Pennsylvania						
Rhode Island						
South Carolina	SS					SS
South Dakota						
Tennessee						
Texas						
Utah	County clerks				$500.00, 2 yrs	LG
Vermont						

STATE INITIATIVES: PREPARING THE INITIATIVE TO BE PLACED ON THE BALLOT—Continued

State	Signatures verified by who (a)	Within how many days after filing	Number of days to complete a petition that is: Incomplete (b)	Not accepted (c)	Penalty for falsifying petition (denotes fine, jail terms)	Petition certified (d) by who
Virginia						
Washington	SS	(f)		10 days (h)		SS
West Virginia						
Wisconsin						
Wyoming	SS	60 days	60 days	60 days	$1,000.00, 1 yr	

Source: State election administration offices.

Key:
. . . — Not applicable
SS — Secretary of State
LG — Lieutenant Governor
BSC — Board of State Canvassers
SBE — State Board of Elections
LS — Legislative session

(a) The validity of the signatures, as well as the correct number of required signatures must be verified before the initiative is allowed on the ballot.

(b) If an insufficient number of signatures are submitted, sponsors may amend the original petition by filing additional signatures within a given number of days after filing. If the necessary number of signatures have not been submitted by this date, the petition is declared void.

(c) In some cases, the state officer will not accept a valid petition. In such a case, sponsors may appeal this decision to the Supreme Court, where the sufficiency of the petition will be determined. If the petition is determined to be sufficient, the initiative is required to be placed on the ballot.

(d) A petition is certified for the ballot when the required number of signatures have been submitted by the filing deadline, and are determined to be valid.

(e) Applies to statutory initiatives.

(f) Direct—no specific limit; Indirect—45 days.

(g) In Arizona, the secretary of state has 48 hours to count signatures and 15 days to complete random sample; the county recorder then has 10 days to verify signatures.

(h) In Washington, a petition that is not accepted may be *appealed* in 10 days.

ELECTIONS

Table 5.17
STATE INITIATIVES: VOTING ON THE INITIATIVE

State	Ballot (a)		Election where initiative voted on	Effective date of approved initiative (b)		Days to contest election results (c)	Can an approved initiative be			Can a defeated initiative be refiled
	Title by	Summary by		Amendment	Statute		Amended	Vetoed	Repealed	
Alabama										
Alaska	LG		(d)			90 days	Y	N	after 2 yrs	Y
Arizona			GE	IM	IM	5 days	Y	N	Y	
Arkansas	AG	AG		30 days	30 days	60 days		N	N	
California	AG	AG	GE	IM (b)	IM (b)	5 days	Y		Y	Y
Colorado	SS,AG,LS	SS,AG,LS	next biennial election	30 days	30 days			N		Y
Connecticut										
Delaware										
Florida	P,AG	P,AG	GE	(f)		10 days	Y	N	N	Y
Georgia										
Hawaii										
Idaho	AG	AG	GE		30 days	20 days				
Illinois	SBE	SBE	GE	20 days		15 days				
Indiana										
Iowa										
Kansas										
Kentucky										
Louisiana										
Maine			REG or SP	30 days after 2nd vote			N	N	N	
Maryland										
Massachusetts	AG	AG	GE	30 days	30 days	10 days	Y	Y	Y	6 years
Michigan	BSC	BSC	GE	45 days (b)	10 days (b)	2 days	Y	N	Y	
Minnesota										
Mississippi										
Missouri		LC	GE or SP	30 days	IM	30 days		N		Y
Montana		AG	GE	July 1	Oct. 1			N		Y
Nebraska	AG	AG	GE 4 mo. after filing	10 days (b)	10 days (b)	40 days		N		after 3 yrs
Nevada	SS,AG	SS,AG	GE	10 days (e)	10 days (e)	10 days	N	N	N	Y
New Hampshire										
New Jersey										
New Mexico										
New York										
North Carolina										
North Dakota			PR,SP, or GE	30 days	30 days		w/i 7 Yrs	N	w/i 7 yrs	Y
Ohio	SS	Ohio Ballot Board	(g)			15 days		N		Y
Oklahoma	AG	AG		IM	IM			N	Y	after 3 yrs
Oregon	AG		GE even years	30 days	30 days	40 days	N	N	Y	Y
Pennsylvania										
Rhode Island										
South Carolina										
South Dakota		AG	GE	1 day	1 day	10 days		N	Y	Y
Tennessee										
Texas										
Utah	LC	LC	GE		5 day	5 days	Y	N		Y
Vermont										
Virginia										
Washington	AG	AG	GE		IM	3	after 2 yrs		after 2 yrs	Y
West Virginia										
Wisconsin										
Wyoming	SS	SS,AG	GE 120 days after LS		90 days		Y	N	after 2 yrs	after 5 yrs

Source: State election administrative offices.

Key:
. . . — Not applicable
LG — Lieutenant Governor
SS — Secretary of State
AG — Attorney General
P — Proponent
LC — Legislative Council
BSC — Board of State Canvassers
SBE — State Board of Elections
GE — General election
REG — Regular election
SP — Special election
IM — Immediately
LS — Legislative legal services
Y — Yes
N — No

(a) In some states, the ballot title and summary will differ from that on the petition.

(b) A majority of the popular vote is required to enact a measure. In Massachusetts and Nebraska, apart from satisfying the requisite majority vote, the measure must receive, respectively, 30% and 35% of the total votes cast in favor. An initiative approved by the voters may be put into effect immediately after the approving votes have been canvassed—California and Nebraska; or after a certain number of days have passed following the election in which the initiative was voted on, Michigan—Constitutional Amendment or after certification - statutory initiative.

(c) Individuals may contest the results of a vote on an initiative within a certain number of days after the election including the measure proposed.

(d) First statewide election at least 120 days after the legislative session.

(e) Fourth Wednesday in November.

(f) First Tuesday after the first Monday in January following the general election.

(g) General election at least 90 days after filing.

TABLE II: NUMBER OF STATEWIDE BALLOT MEASURES, 1970 - 1982*

	1970	1972	1974	1976	1978	1980	1982	Total
Alaska	17	15	13	16	15	13	8	97
Arizona	6	11	10	7	3	9	10	56
Arkansas	3	1	4	4	3	5	4	24
California	28	32	27	15	21	26	15	164
Colorado	5	12	10	10	2	6	7	52
Florida	7	5	7	9	9	10	2	49
Idaho	4	9	3	2	6	2	11	37
Illinois	8	0	1	0	3	2	1	15
Maine	11	11	12	13	16	8	15	86
Massachusetts	5	9	6	9	7	6	4	46
Michigan	3	8	4	4	11	7	8	45
Missouri	8	2	3	10	13	6	20	62
Montana	4	6	3	6	11	5	8	43
Nebraska	17	34	6	9	10	6	6	88
Nevada	9	7	4	11	6	9	12	58
North Dakota	3	3	9	9	16	16	7	63
Ohio	5	4	14	16	7	1	3	50
Oklahoma	10	13	9	13	7	9	3	64
Oregon	17	15	21	16	32	14	6	121
South Dakota	11	6	2	6	7	7	4	43
Utah	3	4	5	4	0	6	4	26
Washington	8	24	10	12	11	11	9	85
Wyoming	5	6	3	0	3	1	3	21

* Includes legislative and citizen-sponsored ballot measures.

Number of Statewide Ballot Measures
1970 - 1982

State Legislative Leaders Foundation - University of California

Preparation for

Session I

Thursday, November 7, 1991
4:30 - 5:00 p.m.

The Initiative Process in America: History and Philosophy

The modern initiative and referendum are products of the turn-of-the-century reform movement, Progressivism. Prior to 1910, partisan machines dominated politics in many parts of America. The Progressives sought and enacted a host of political reforms to weaken parties and reduce the influence of special interests in politics. In California, the Progressives opposed the dominant voice of the Southern Pacific Railroad in state government, as well as the Democratic political machine of Abe Ruef in San Francisco. As the attorney who successfully prosecuted Ruef, Hiram Johnson was elected Governor of California in 1910 on a Progressive platform and successfully fought for adoption of such Progressive reforms as initiative, referendum, recall, direct primaries and others.

There is an inherent tension between the institutions of representative government and those of popular government. Representative government follows a pluralist philosophy. That is, citizens join groups to express support for policies before the legislature. The legislature is needed to negotiate among these groups, while preventing large factions from infringing on the rights of minorities. Supporters of representative government argue that, under a popular government, policy would be dominated by the short-term desires of the populace at the expense of the long-term welfare of society. Popular government also creates the possibility that citizens will endorse increments of policy which do not add up to a coherent governmental program.

Popular government is premised on the belief that every individual should have an equal voice in governmental decisions, and popular government oppose the notion that groups are effective articulators of the public will. They claim that interest groups are too parochial and too closely connected to the legislature. Citizens use the initiative process to break these bonds and promote a broad state interest. In some instances, the initiative process may be a necessary tool to break legislative deadlock. For example, when the California legislature was unable to reform insurance regulation due to the competing interests of trial lawyers, consumer organizations, and the insurance industry, the initiative process was used to break the stalemate.

The initiative process is available in some twenty-three states, but is only used

the rise of direct mail petitioning and the initiative consulting industry. After an initial surge in popularity from 1912 until the 1930's, initiative use in California dropped for three decades. In the 1970's and 1980's, initiative and referendum use increased considerably.

TABLE I: INITIATIVES QUALIFYING FOR THE CA. BALLOT BY DECADE

Decade	Initiatives	Success
1912-19	30	27%
1920-29	35	29
1930-39	37	27
1940-49	20	30
1950-59	12	17
1960-69	9	33
1970-79	22	32
1980-89	44	50

Initiative approval rates have climbed, suggesting public support for this method of legislating. However, this popularity does not seem to translate into public willingness to insulate the process from reform, as demonstrated by the defeat of California Proposition 137, which would have prevented legislative reform of the initiative process, in 1990. Two California polls have further supported the notion that public support for the initiative process is declining. A Los Angeles Times Poll taken a week before the 1990 election found that 72 percent of registered voters agreed that "The initiative process has gotten out of control in California." Similarly, the California Poll reports a decline in the percentage of respondents who feel that the initiative process is a good thing overall--down from 83 percent support in 1979 to 66 percent in 1990.

The initiatives proposed in the first quarter of the century in California tended to focus on morality issues (esp. gambling and prohibition), regulation of utilities and professions, election reform and state fiscal measures. Contemporary California initiatives have emphasized political reform (including redistricting), tax and expenditure policy, and environmental and health regulation.

Compared to other democracies, Americans are frequent users of the initiative process. In Europe, thirteen democracies held only 68 national referenda between 1900 and 1978. Regional referenda are permitted in some of these nations, but these are also infrequent. Only Switzerland, with a long history of direct democracy, compares to the United States in frequency of initiative use (nearly 250 national referenda since 1900 and many more regional referenda.)

THE DEBATE OVER INITIATIVE REFORM

The increased use of the initiative process has intensified the debate over the need for reform. Most reformers argue that direct democracy has become undemocratic, due to the growing influence of large campaign contributions and professional campaign organizations, potential for misinformation and voter confusion in ballot measure campaigns, and the expanding role of the courts and executive branch in interpreting and implementing successful ballot measures. Here are some of the most common initiative reform proposals.

Pre-Petition Draft Initiative Review (In Alaska)

Initiative language may be unintentionally confusing or ambiguous. This lack of legal clarity confuses voters about the intentions of the measure and complicates implementation of successful measures. Under this proposal, the Attorney General, Secretary of State, legislative counsel, or other qualified agency would be required to review the language of the initiative prior to petition circulation.

Single Subject Rule Flynn Supports

Reformers argue that ballot measure authors intentionally combine popular and unpopular provisions in the same initiative. Narrower court interpretation of the single subject rule would hinder this practice.

Increasing Signature Thresholds Flynn Supports (Alaska 10%)

The increasing number of initiatives which qualify for the California ballot suggests that signature thresholds may be too low. To qualify a statute initiative in California requires signatures equivalent to 5 percent of the total number of votes cast for Governor in the preceding election. (Constitutional initiatives require 8 percent to qualify.) Professionalization of signature gathering has made it easier to meet these requirements. Increasing the requirements would make it more difficult to qualify measures and, presumably, reduce the number of measures which qualify. One proposal would raise the requirements to qualify and pass constitutional amendments.

Preference to Unpaid Signature Gathering

To reduce the importance of paid signature gatherers, Dan Lowenstein, former chairman of the California Fair Political Practices Commission, has recommended a two-tier signature requirement. If volunteers gather all signatures, the petition would need 50 percent of current requirements to qualify for the ballot. If paid petitioners were employed, the petition would need 150 percent of current requirements.

Spending and Contribution Limits

To date, the U.S. Supreme Court has ruled that spending and contribution limits for ballot measure campaigns are unconstitutional infringements on the freedom of speech. The court reasons that, unlike candidate campaigns, initiative contributions do not open the door for political corruption, because there is no opportunity for quid pro quo. Voluntary spending and contribution limits are possible and could be tied to public financing of ballot measure campaigns.

Indirect Initiative

The indirect initiative, employed in several states, allows the legislature to approve or amend a ballot measure when signatures have been gathered.

Revitalized Fairness Doctrine

Money buys exposure. With the Fairness Doctrine in decline, some reformers are concerned by the possibility that well-funded campaigns might buy ballot measure victories. A variety of strategies might be developed to provide free or low-cost television and radio time to poorly funded ballot measure campaigns.

Overhauling the Ballot Pamphlet

Surveys have shown that voters find ballot pamphlets useful, but few take the time to read them. The pamphlet might be changed to place the text of measures at the back of the pamphlet (perhaps on different colored paper), place ballot measures before candidates in the pamphlet, reduce the amount of space given to arguments for each side, improve the readability of the ballot pamphlet by simplifying the language, and exploring alternative methods to disseminate ballot pamphlet information (e.g. television or radio). Holman and Stodder propose televising ballot pamphlet information when campaign spending on a certain measure exceeds a certain threshold.

Initiative Repeal and Amendment

As is true in most initiative states, the legislature and governor could be empowered to amend and repeal statutory initiatives after a specified period.

Restriction of Initiative Subjects Flynn Supports (Alaska Limits)

Several states do not allow initiatives with specific fiscal provisions, lest they their citizens vote to spend more and pay less. Precluding specific fiscal provisions would allow the legislature and governor to implement ballot measures within the broader context of the state budget.

Date of Initiative Election

Due to the low turnout in primary and special elections, ballot measures might be limited to general elections to promote representativeness. A similar proposal would require a minimum turnout threshold (e.g. 50 percent of registered voters) as a condition of ballot measure passage.

Table 5.15
STATE INITIATIVES: CIRCULATING THE PETITION

State or other jurisdiction	Basis for signatures: Amendment (see key below)	Basis for signatures: Statute	Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election: Amendment	Days prior to election: Statute
Alabama	...	...	...	...	...	...	...
Alaska	...	10% TV from 2/3 ED	1 year	Y	LG	...	...
Arizona	15% VG	10% VG	2 years	Y	SS	4 months	4 months
Arkansas	10% EwG, 5% each from 15 co.	8% VEG, 5% each from 15 co.	...	...	SS	...	...
California	8% VG	5% VG	130 days	Y	SS	131 days	131 days
Colorado	5% VSS	5% VSS	6 months	...	SS	3 months	...
Connecticut	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...
Florida	8% VEP, 8% from 1/2 CD	...	...	...	...	...	...
Georgia	...	...	...	...	SS	91 days	...
Hawaii	...	...	...	...	...	...	...
Idaho	...	10% VG	...	...	...	...	...
Illinois	8% VG	...	...	...	SS	...	4 months
Indiana	...	...	2 years	Y	SS	6 months	...
Iowa	...	...	...	...	...	...	...
Kansas	...	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...	...
Maine	...	10% VG	1 year	...	SS	...	...
Maryland	...	...	...	...	...	...	...
Massachusetts	3% VG, no more than 25% from 1 co.	3% VG, no more than 25% from 1 co. (e)	...	Y	SS	...	...
Michigan	10% VG	8% VG	(d)	...	SS	(e)	(e)
Minnesota	...	...	...	...	...	...	...
Mississippi	...	...	...	...	...	...	...
Missouri	8% VG, 8% each from 2/3 CG	5% VG, 5% each from 2/3 CD	12 months	Y	SS	4 months	...
Montana	10% VG, 10% each from 2/3 SLD	5% VG, 5% each from 1/3 SLD	1 year	Y	SS	(f)	(f)
Nebraska	10% EV, 5% each from 2/5 co.	7% EV, 5% each from 2/5 co.	...	Y	SS	4 months	4 months
Nevada	10% TV, 10% each from 3/4 co.	10% TV, 10% each from 3/4 co.	(g)	...	SS	30 days prior to LS	30 days
New Hampshire	...	...	...	...	...	...	...
New Jersey	...	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...	...
New York	...	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...	...
North Dakota	4% resident population	2% resident population	...	...	SS	90 days	90 days
Ohio	10% VG, 1.5% each from 1/2 co.	3% VG, 1.5% each from 1/2 co. (h)	...	...	SS	90 days	90 days
Oklahoma	15% VH	8% VH	90 days	N	SS	...	...
Oregon	8% VG	6% VG	...	...	SS	4 months	4 months
Pennsylvania	...	...	...	...	...	...	...
Rhode Island	...	...	...	...	...	...	...
South Carolina	...	...	...	...	...	...	...
South Dakota	10% VG	5% VG	1 year	...	SS	one year	189 days
Tennessee	...	...	...	...	...	...	...
Texas	...	...	...	...	...	...	...
Utah	...	10% VG, 10% each from 1/2 co.	2 years	Y	LG	...	150 days
Vermont	...	...	...	...	...	...	...

STATE INITIATIVES: CIRCULATING THE PETITION—Continued

State or other jurisdiction	Basis for signatures: Amendment (see key below)	Basis for signatures: Statute	Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election: Amendment	Days prior to election: Statute
Virginia	...	8% VG	(h)	Y	SS	...	(i)
Washington	...	...	...	...	...	...	...
West Virginia	...	...	...	...	...	...	...
Wisconsin	...	15% TV	18 months	Y	SS	...	60 days
Wyoming	...	...	...	...	...	...	...

Source: State election administrative offices.

Key:
... — Not applicable
VG — Total votes cast for the position of governor last election
EV — Eligible voters
VH — Total votes cast for the office receiving the highest number of votes cast last general election
TV — Total voters in last general election
ED — Election district
co. — county
SS — Secretary of State
LS — Legislative Session

(a) The petition circulation period begins when petition forms have been approved and provided to sponsors. Sponsors are those individuals granted permission to circulate a petition, and are therefore responsible for the validity of each signature on a given petition.

(b) Should an individual wish to remove his/her name from a petition, a request to do so must be submitted in writing to the state officer with whom the petition is filed.

(c) First Wednesday in December.

(d) In Michigan, signatures dated more than 180 days prior to the filing date are ruled invalid.

(e) Constitutional Amendment—not less than 120 days prior to the next general election; statute—approximately 160 days prior to the next general election.

(f) Second Friday of the fourth month prior to election (3 1/2 months).

(g) Constitutional Amendment—276 days; Amend or create a statute—291 days.

(h) Direct—6 months; Indirect—10 months.

(i) Direct—3 months; Indirect—10 months prior to legislative session.

Table 5.16
STATE INITIATIVES: PREPARING THE INITIATIVE TO BE PLACED ON THE BALLOT

State	Signatures verified by who (a)	Within how many days after filing	Number of days to complete a petition that is: Incomplete (b)	Not accepted (c)	Penalty for falsifying petition (denotes fine, jail term)	Petition certified by who (d)
Alabama	...	...	...	...	...	...
Alaska	Director of Elections	60 days	30 days	...	Class B misdemeanor	LG
Arizona	SS, county recorder	10 days (g)	10 days	...	Class 1 misdemeanor	SS
Arkansas	...	15 days	30 days	15 days	$50-$100.00, 1-5 yrs	SS
California	Clerk or registrar of voters	25-105 days	...	...	...	
Colorado	SS	21 days	...	...	...	SS
Connecticut	...	...	...	...	...	...
Delaware	...	...	...	...	...	...
Florida	Supervisor of elections	...	...	...	...	SS
Georgia	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...
Idaho	County clerk	...	...	10 days	$5,000.00, 2 yrs	SS
Illinois	SBE and Election Auth.	14 days	...	...	...	SBE
Indiana	...	...	...	...	...	...
Iowa	...	...	...	...	...	...
Kansas	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...
Maine	...	25 days	...	...	...	SS
Maryland	...	...	...	...	...	...
Massachusetts	Local board of registrar	2 weeks	4 weeks (e)	...	...	...
Michigan	City and township clerks	...	...	...	...	...
Minnesota	...	...	...	...	...	...
Mississippi	...	...	...	...	...	...
Missouri	SS, local election auth.	...	Prior to filing deadline	...	Class A misdemeanor	SS
Montana	County registrar	4 weeks	...	...	$500.00, 6 months	SS
Nebraska	County clerk or election commr.	40 days	...	10 days	Class IV felony	SS
Nevada	County clerk or registrar	20-30 days	...	...	$10,000.00,1-10 yrs	SS
New Hampshire	...	...	...	...	...	...
New Jersey	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...
New York	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...
North Dakota	SS	35 days	...	...	...	...
Ohio	County board of elections	...	20 days	...	...	SS
			10 days	...	$1,000.00, 6 months	SS
Oklahoma	...	...	...	...	...	...
Oregon	SS, county elections official	15 days	...	...	...	...
Pennsylvania	...	...	...	...	...	SS
Rhode Island	...	...	...	...	...	...
South Carolina	SS	...	...	...	...	...
			...	...	...	SS
South Dakota	...	...	...	...	...	...
Tennessee	...	...	...	...	...	...
Texas	...	...	...	...	...	...
Utah	County clerks	...	...	...	...	...
Vermont	...	...	...	...	$500.00, 2 yrs	LG
			...	...	...	...

STATE INITIATIVES: PREPARING THE INITIATIVE TO BE PLACED ON THE BALLOT—Continnued

State	Signatures verified by who (a)	Within how many days after filing	Number of days to complete a petition that is: Incomplete (b)	Not accepted (c)	Penalty for falsifying petition (denotes fine, jail term)	Petition certified (d) by who
Virginia	...	...	...	...	...	...
Washington	SS	10	...	10 days (h)	...	SS
West Virginia	...	...	...	...	...	...
Wisconsin	...	...	...	...	...	...
Wyoming	SS	60 days	60 days	60 days	$1,000.00, 1 yr	...

Source: State election administration offices.

Key:
. . . — Not applicable
SS — Secretary of State
LG — Lieutenant Governor
BSC — Board of State Canvassers
SBE — State Board of Elections
LS — Legislative session

(a) The validity of the signatures, as well as the correct number of required signatures must be verified before the initiative is allowed on the ballot.

(b) If an insufficient number of signatures are submitted, sponsors may amend the original petition by filing additional signatures within a given number of days after filing. If the necessary number of signatures have not been submitted by this date, the petition is declared void.

(c) In some cases, the state officer will not accept a valid petition. In such a case, sponsors may appeal this decision to the Supreme Court, where the sufficiency of the petition will be determined. If the petition is determined to be sufficient, the initiative is required to be placed on the ballot.

(d) A petition is certified for the ballot when the required number of signatures have been submitted by the filing deadline, and are determined to be valid.

(e) Applies to statutory initiatives.

(f) Direct—no specific limit; Indirect—45 days.

(g) In Arizona, the secretary of state has 45 hours to count signatures and 15 days to complete random sample; the county recorder then has 10 days to verify signatures.

(h) In Washington, a petition that is not accepted may be *appealed* in 10 days.

Table 5.17
STATE INITIATIVES: VOTING ON THE INITIATIVE

State	Ballot (a) Title by	Ballot (a) Summary by	Election where initiative voted on	Effective date of approved initiative (b) Amendment	Effective date of approved initiative (b) Statute	Days to contest election results (c)	Can an approved initiative be: Amended	Vetoed	Repealed	Can a defeated initiative be refiled
Alabama	...	...	...	...	...	...	...	...	...	...
Alaska	LG	...	(d)	...	...	90 days	Y	N	after 2 yrs	Y
Arizona	...	...	GE	IM	IM	5 days	Y	N	Y	...
Arkansas	AG	AG	...	30 days	30 days	60 days	...	N	N	...
California	AG	AG	GE	IM (b)	IM (b)	5 days	Y	...	Y	Y
Colorado	SS,AG,LS	SS,AG,LS	next biennial election	30 days	30 days	...	...	N	...	Y
Connecticut	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...
Florida	P,AG	P,AG	GE	(f)	...	10 days	Y	N	N	Y
Georgia	...	...	...	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...	...	...	...
Idaho	AG	AG	GE	...	30 days	20 days	...	...	...	...
Illinois	SBE	SBE	GE	20 days	...	15 days	...	...	...	...
Indiana	...	...	...	...	...	...	...	...	...	...
Iowa	...	...	...	...	...	...	...	...	...	...
Kansas	...	...	...	...	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...	...	...	...	...
Maine	...	...	REG or SP	30 days after 2nd vote	...	...	N	N	N	...
Maryland	...	...	...	...	...	...	...	...	...	...
Massachusetts	AG	AG	GE	30 days	30 days	10 days	Y	Y	Y	6 years
Michigan	BSC	BSC	GE	45 days (b)	10 days (b)	2 days	Y	N	Y	...
Minnesota	...	...	...	...	...	...	...	...	...	...
Mississippi	...	...	...	...	...	...	...	...	...	...
Missouri	...	LC	GE or SP	30 days	IM	30 days	...	N	...	Y
Montana	...	AG	GE	July 1	Oct. 1	...	...	N	...	Y
Nebraska	AG	AG	GE 4 mo. after filing	10 days (b)	10 days (b)	40 days	...	N	...	after 3 yrs
Nevada	SS,AG	SS,AG	GE	10 days (e)	10 days (e)	10 days	N	N	N	Y
New Hampshire	...	...	...	...	...	...	...	...	...	...
New Jersey	...	...	...	...	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...	...	...	...	...
New York	...	...	...	...	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...	...	...	...	...
North Dakota	...	...	PR,SP, or GE	30 days	30 days	...	w/i 7 Yrs	N	w/i 7 yrs	Y
Ohio	SS	Ohio Ballot Board (g)	...	...	...	15 days	...	N	...	Y
Oklahoma	AG	AG	...	IM	IM	...	...	N	Y	after 3 yrs
Oregon	AG	...	GE even years	30 days	30 days	40 days	N	N	Y	Y
Pennsylvania	...	...	...	...	...	...	...	...	...	...
Rhode Island	...	...	...	...	...	...	...	...	...	...
South Carolina	...	...	...	...	...	...	...	...	...	...
South Dakota	...	AG	GE	1 day	1 day	10 days	...	N	Y	Y
Tennessee	...	...	...	...	...	...	...	...	...	...
Texas	...	...	...	...	...	...	...	...	...	...
Utah	LC	LC	GE	...	5 day	5 days	Y	N	...	Y
Vermont	...	...	...	...	...	...	...	...	...	...
Virginia	...	...	...	...	...	...	...	...	...	...
Washington	AG	AG	GE	...	IM	3	after 2 yrs	...	after 2 yrs	Y
West Virginia	...	...	...	...	...	...	...	...	...	...
Wisconsin	...	...	...	...	...	...	...	...	...	...
Wyoming	SS	SS,AG	GE 120 days after LS	...	90 days	...	Y	N	after 2 yrs	after 5 yrs

Source: State election administrative offices.

Key:
... — Not applicable
LG — Lieutenant Governor
SS — Secretary of State
AG — Attorney General
P — Proponent
LC — Legislative Council
BSC — Board of State Canvassers
SBE — State Board of Elections
GE — General election
REG — Regular election
SP — Special election
IM — Immediately
LS — Legislative legal services
Y — Yes
N — No

(a) In some states, the ballot title and summary will differ from that on the petition.

(b) A majority of the popular vote is required to enact a measure. In Massachusetts and Nebraska, apart from satisfying the requisite majority vote, the measure must receive, respectively, 30% and 35% of the total votes cast in favor. An initiative approved by the voters may be put into effect immediately after the approving votes have been canvassed—California and Nebraska; or after a certain number of days have passed following the election in which the initiative was voted on: Michigan—Constitutional Amendment or after certification - statutory initiative.

(c) Individuals may contest the results of a vote on an initiative within a certain number of days after the election including the measure proposed.

(d) First statewide election at least 120 days after the legislative session.

(e) Fourth Wednesday in November.

(f) First Tuesday after the first Monday in January following the general election.

(g) General election at least 90 days after filing.

STATE REFI

State

Alabama
Alaska
Arizona
Arkansas
California

Colorado
Connecticut
Delaware
Florida
Georgia

Hawaii
Idaho
Illinois
Indiana
Iowa

Kansas
Kentucky
Louisiana
Maine
Maryland

Massachusetts
Michigan
Minnesota
Mississippi
Missouri

Montana
Nebraska
Nevada
New Hampshire
New Jersey

New Mexico
New York
North Carolina
North Dakota
Ohio

Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina

South Dakota
Tennessee
Texas
Utah
Vermont

Virginia
Washington
West Virginia
Wisconsin
Wyoming

Source: State election a

Key:
... — Not applicable
EV — Eligible voters
LG — Lieutenant Gove
SS — Secretary of Stat
AG — Attorney Genera
P — Proponent
ST — State
SP — Sponsor
Y — Yes
N — No

(a) Three forms of refer
lature and Constitutional
enact a citizens petition.

(b) Prior to circulating a
must first be submitted to

State Legislative Leaders Foundation - University of California

Preparation for

Session II

Thursday, November 7, 1991
5:00 - 5:30 p.m.

Trends in the States: A Comparative Overview

States vary enormously in the regulation of the referendum and initiative. These differences encompass such matters as the number of signatures required for ballot qualification, the subject matter that can be put on an initiative and the right of legislative review and amendment. The laws that regulate initiative use are important determinants of the frequency and quality of the initiatives that finally appear on the ballot. This session will survey the different approaches that various states take, assessing what seems to work best and why.

One truism of American politics is beyond challenge: It varies from state to state. So it is with the initiative process. State laws governing initiatives vary significantly among states with regard to signature threshholds, ability of the legislature to review the measure prior to the election (indirect initiative), and the ability to amend, repeal, and refile measures. Floyd Feeney and Philip Dubois conducted a study, supported by the California Policy Seminar, on differences in laws governing initiative and referendum use in various states.

Compared to other states, California's signature requirements are easy. For constitutional amendments, eleven states require signatures equivalent to at least 10% of the gubernatorial vote in the last election. California and five other states require 8% or less. Those states with more difficult signature requirements tended to have fewer constitutional amendments proposed by initiative.

Ease of Qualification Process	Constitutional Amendments per State 1970-1988
Easy (6 states)	12
Moderate (7 states)	8
Difficult (4 states)	4

States also vary significantly on the role given to the legislature in the initiative process through the indirect initiative. Under the *direct initiative*, a measure automatically goes on the ballot when enough signatures are obtained. Under the *indirect initiative*, when enough signatures have been gathered, the proposal first goes to the legislature which may approve, modify or reject the measure. Fifteen states provide only for the direct initiative. Eight states employ some form of indirect initiative.

Once passed, initiatives are not sacrosanct in many jurisdictions. Thirteen states allow amendment or repeal of initiatives by the legislature at any time, but this has rarely occurred in the first several years after an initiative is passed. Four states limit legislative power to amend or repeal, requiring either a supermajority or a waiting period of two to three years before changes can be made. Only California and Arizona require a vote of the people to amend initiatives.

Four states add an additional limitation on initiative proposers by requiring a waiting period of three to six years before unsuccessful ballot measures may be refiled.

Seven states restrict initiative use on issues dealing with taxation or appropriation. One state (Massachusetts) forbids changes affecting freedom of speech, press, elections, assembly, just compensation, or the right of access to the courts.

TABLE III: TOTAL NUMBER OF INITIATIVES, 1950 - 1982

North Dakota	67
Arizona	63
Oregon	52
Washington	51
California	48
Colorado	39
Montana	30
Oklahoma	28
Arkansas	27
Michigan	24
Massachusetts	18
Ohio	17
Missouri	16
Nebraska	14
South Dakota	14
Alaska	12
Nevada	12
Utah	8
Maine	7
Idaho	6
Illinois	3
Florida	2
Wyoming	0

The Anchorage Times

"Believing in Alaskans, putting Alaska first"

Publisher: BILL J. ALLEN
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1.18.93

An early opportunity

THE PEOPLE of Alaska clearly want it. The governor recommended it in his State of the State speech. The time has come for the Legislature to make it possible. We speak of the ability to amend the state constitution by initiative action.

As things now stand, absent a constitutional convention, our constitution cannot be changed unless the Legislature, by a two-thirds vote of both the Senate and the House, approves a proposed amendment that then must win approval of a majority of voters at the next statewide election.

All well and good, but . . . Unless the legislators take the initial step, there can be no amendment — even if the people clearly and overwhelmingly cry out for a change.

This has happened time and time again in Alaska's 34-year statehood history. Over and over again legislators, acting to protect their own political interests, have stymied and frustrated the will of the people.

The system may provide for good politics, if you're an insider in the game. But it doesn't do much for good government or for giving the people a true opportunity to affect change. An initiative amendment would do that.

After all, our constitution already permits the people to enact laws by initiative — in case the legislators, in formal session, refuse to act. The same constitutional provision allows the people, by referendum, to repeal a law passed by the Legislature to which a majority of voters objects.

But a constitutional change relies on the Legislature agreeing first to take action to put an amending proposition on the ballot. And that's been proven to be insufficient to meet the need. As Gov. Hickel said in his remarks to a joint legislative session last Tuesday: "Many of you are on record in favor of this much-needed change. Let's do it."

Right. And let's do it quickly. This is a matter the Legislature could address right now, in the next week, and get it passed and out of the way — before it, too, becomes some kind of a trading chip held for the end of the session, months down the line.

As a matter of fact, action on this simple proposal could be something of a litmus test for the 1993 lawmaking session. On this one proposal alone, the Legislature could tell whether this session will be refreshingly different — or one that is just more of the same old dismal displays seen year after year in the past.

"The reason legislative pay is the hammer is I couldn' think of anything else. If you just pass a rule, it can b ignored."

— Rep. Fran Ulmer, on her bill that would requir legislators' paychecks to be withheld if they fail to pass th state operating budget by the 90th day of the 121-da legislative session.

Times Article

SJR

8

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SJR 8

Revision Date: _____ Department Affected: Office of the Governor

Title: Amendment to the Constitution RE:Capitol projects & loan appropriations, & to the expediture limit

BRU: Division of Elections

Component: General and Primary

Sponsor: Senator Phillips

Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						
FUNDING:						
1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0
POSITIONS:						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Joseph L. Swanson, Director Phone: 465-4611
Division: Division of Elections Date: 12/29/93

Approved by Commissioner: Lt. Governor John B. Coghill
Agency: Office of the Lt. Governor Date: 1-3-94

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ERNOR'S LEGISLATIVE OFFIC
or's Legislative Office

Alaska State Legislature

Randy Phillips
State Senator
District L

Chair
Legislative Budget and Audit
Community and Regional Affairs
Vice-Chair
Transportation

Session
State Capitol
Juneau, AK 99801
(907) 465-4949

Interim
P.O. Box 142
Eagle River AK 99577
(907) 694-4949

Memorandum

TO: Senator Loren Leman, Chairman
Senate State Affairs Committee

FROM: Senator Randy Phillips R.E.P.

DATE: January 22, 1993

RE: Sponsor Statement for:
Senate Joint Resolution No. 8,
Proposing Amendments to the Constitution of the State of Alaska relating to capital projects and loan appropriations, and to the expenditure limit.

SJR 8 would set a limit of $2.3 billion for appropriations of unrestricted general funds from the state treasury for each fiscal year FY 1995 to FY 2000. SJR 8 would also provide that at least 10% of the amount appropriated in each fiscal year would be appropriated for capital projects and loans.

Alaska's Constitution Article IX, Section 16 currently contains an "appropriation limit" which was approved by the voters in 1982. The current appropriation limit in the Constitution would allow for general fund spending of more than $4.5 billion in FY93. Given that unrestricted general fund revenues are predicted to be at or near $2 billion, it is easy to see that the current appropriation limit makes no sense. Alaska also has a "statutory appropriation limit", AS 37.05.540, passed in 1987 which was intended to limit the growth of spending to equal inflation and population growth. This appropriation limit is not effective for two reasons:

1. Since it is in statute and not in the Constitution, the Legislature can not be bound to it, that is, any appropriation bill that exceeds the limit is a new law that supersedes the law setting the limit.

2. The method used to set the appropriation limit in AS 37.05. 540 is confusing and has lead to a situation where the limit has been technically breached even though the Legislature made a conscious effort to keep appropriations within the limit.

Alaska's Constitution does not require a "balanced budget" in the sense that annual expenditures must be balanced to annual revenues. Annual appropriations may exceed annual revenues and have in a number of years. the only real appropriation limit that is faced by the Legislature at this time is the prohibition against long-term borrowing to fund government operations. It would be possible for the Legislature to appropriate all revenues, special accounts, budget reserve funds and the earnings of the permanent fund all in one year.

In a perfect world, there would be no need to establish an appropriation limit in the state Constitution, Legislators would balance the demands of the public against the resources available and plan for the future. In the real world. the pressures brought by the public to fund specific programs makes in nearly impossible to make budget cuts. The need for an appropriation limit has been shown by the fact that the Legislature and the people of the State of Alaska have acted twice to establish appropriation limits. However, neither appropriation limit has been effective. Now is the time to establish an appropriation limit that is in the Constitution, enforceable, and also realistic.

If you have any questions or comments do not hesitate to call me at 4949. Your cooperation is appreciated.

Alaska State Legislature

Randy Phillips
State Senator
District L

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Juneau, AK 99801
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Chair
Legislative Budget and Audit
Community and Regional Affairs
Vice-Chair
Transportation

January 26, 1993

Sectional Analysis

SJR 8

Section 1:

Amends Article IX of the Constitution to provide that no less than 10% of the money appropriated each fiscal year be appropriated for capital projects and loans.

Section 2:

Amends Article IX of the Constitution to suspend the current expenditure limit. It establishes a new temporary expenditure limit for the fiscal years 1995 to 2000. The temporary expenditure limit is set at $2,300,000 with the following exceptions:

- Appropriations to the Permanent Fund
- Permanent fund dividends
- Appropriations to the budget reserve fund
- Appropriations of revenue from a tax approved by the voters
- Bond proceeds
- The principal and interest on bonds issued by the state
- Money received in trust for a specific purpose
- Endowment earnings
- Revenue from public corporations

The expenditure limit can be exceeded with a two-thirds vote of both the Senate and the House.

If inflation exceeds 6%, the legislature may appropriate an amount to offset the effect of the inflation that exceeds 6%.

Any revenues in excess of the expenditure limit will be deposited in the Constitutional Budget Reserve Fund.

Section 3:

Provides that the proposed amendments be placed before the voters at the next general election.

FY94 SPENDING LIMITS

Constitutional Spending Limit	4,532.0
Statutory Spending Limit	2,229.4
SJR 8	2,300.0

FY93 CONSTITUTIONAL APPROPRIATION LIMIT CALCULATION
BASED ON ARTICLE IX, SECTION 16 OF THE ALASKA CONSTITUTION

Month	Calendar Year	Fiscal Year	Population	Population Change	CPI-U	CPI-U Change	Spending Limit
July	1981	82	416,000		92.2		2,500.0
July	1982	83	446,000	7.21%	98.8	7.11%	2,858.1
July	1983	84	488,000	9.42%	99.6	0.83%	3,151.1
July	1984	85	514,000	5.33%	103.2	3.65%	3,433.9
July	1985	86	533,000	3.70%	106.6	3.27%	3,673.1
July	1986	87	544,000	2.06%	108.3	1.58%	3,807.0
July	1987	88	539,000	-0.92%	108.3	0.02%	3,772.9
July	1988	89	542,000	0.56%	108.4	0.09%	3,797.3
July	1989	90	547,000	0.92%	110.9	2.31%	3,919.9
July	1990	91	550,000	0.55%	116.9	5.41%	4,153.5
July	1991	92	570,000	3.64%	123.3	5.47%	4,532.0
July	1992	93	587,000	2.98%	127.3	3.24%	4,814.1

Notes: Population figures come from U.S. Census Bureau, Statistical Abstract of the United States 1992, U.S. Department of Commerce, Economics and Statistics Administration

Inflation figures are calculated using the Anchorage CPI-U prepared by the U.S. Department of Labor, Bureau of Labor Statistics.
FY93 is based on CPI at 12/31/92

Legislative Finance Division

1/26/93

1993 SESSION STATUTORY APPROPRIATION LIMIT CALCULATION
GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
BASED ON A.S. 37.05.540
Assuming all appropriation bills passed during the 1992 session had become law in FY92

APPROPRIATIONS ENACTED IN FY92		
CH 3 SLA 92		
Supplementals (for FY92 and prior years)	49.2	
CH 136 SLA 92		
Operating	1,555.3	
New Legislation	1.2	
FY93 Capital	0.0	
Loans	7.6	
G.O. Debt	59.8	
Other Debt	11.3	
Special Appropriations		
Sec 20, Oil & Hazardous Fund	27.0	
Sec 31, Mental Health Trust Indirect Cost	2.0	
CH 137 SLA 92		
Operating	732.5	
CH 5 FSSLA 92		
Operating	5.7	
Capital	300.3	
Supplementals	45.2	
Special Appropriations		
Sec 137, Storage Tank Assist Fund	5.0	
Total Appropriations		2,802.1
EXCEPTIONS TO THE APPROPRIATION LIMIT		
G.O. Debt Retirement		-59.8
TOTAL APPROPRIATIONS SUBJECT TO LIMIT		2,742.3
Multiply by 5% plus the change in population and inflation		111.15%
1993 SESSION APPROPRIATION LIMIT		3,048.1

1993 SESSION STATUTORY APPROPRIATION LIMIT CALCULATION
GENERAL FUND AND GENERAL FUND/PROGRAM RECEIPTS
BASED ON A.S. 37.05.540

APPROPRIATIONS ENACTED IN FY92			
CH 96 SLA 91			
FY92 Capital	352.2		
CH 3 SLA 92			
Supplementals (for FY92 and prior years)	49.2		
CH 136 SLA 92			
Operating	1,555.3		
New Legislation	1.2		
FY93 Capital	0.0		
Loans	7.6		
G.O. Debt	59.8		
Other Debt	11.3		
Special Appropriations			
Sec 20, Oil & Hazardous Fund	27.0		
Sec 31, Mental Health Trust Indirect Cost	2.0		
Total Appropriations		2,065.6	
EXCEPTIONS TO THE APPROPRIATION LIMIT			
G.O. Debt Retirement		-59.8	
TOTAL APPROPRIATIONS SUBJECT TO LIMIT			2,005.8
Multiply by 5% plus the change in population and inflation			111.15%
1993 SESSION APPROPRIATION LIMIT			2,229.4
APPROPRIATIONS ALREADY ENACTED IN FY93			
CH 137 SLA 92			
Operating	732.5		
CH 5 FSSLA 92			
Operating	5.7		
Capital	300.3		
Supplementals	45.2		
Special Appropriations			
Sec 137, Storage Tank Assist Fund	5.0		
Total Appropriations		1,088.7	

Legislative Finance Division

1/26/93

1993 SESSION
STATUTORY SPENDING LIMIT
MULTIPLICATION FACTOR

		PERCENTAGE CHANGE
SET BY STATUTE		5.00%
CHANGE IN POPULATION		
Source: Greg Williams, Dept. of Labor, Research and Analysis		
1991	570,300	
1992	586,900	
	16,600	2.91%
CHANGE IN INFLATION		
Source: Dept. of Labor, Research and Analysis		
CPI - Urban Consumers - Anchorage		
First half of 1991	123.3	
First half of 1992	127.3	
	4.0	3.24%
TOTAL		11.15%

FY93 CONSTITUTIONAL APPROPRIATION LIMIT CALCULATION
BASED ON ARTICLE IX, SECTION 16 OF THE ALASKA CONSTITUTION

Month	Calendar Year	Fiscal Year	Population	Population Change	CPI-U	CPI-U Change	Spending Limit
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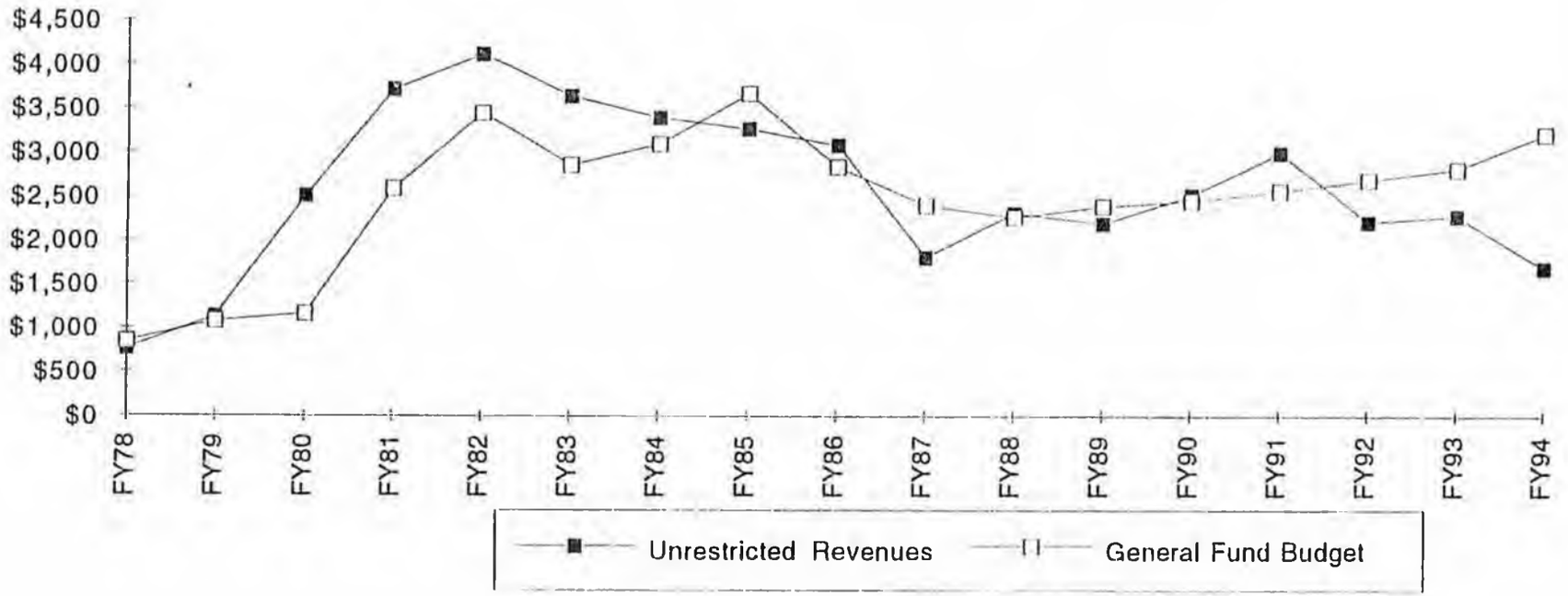
Inflation figures are calculated using the Anchorage CPI-U prepared by the U.S. Department of Labor, Bureau of Labor Statistics.

Legislative Finance Division

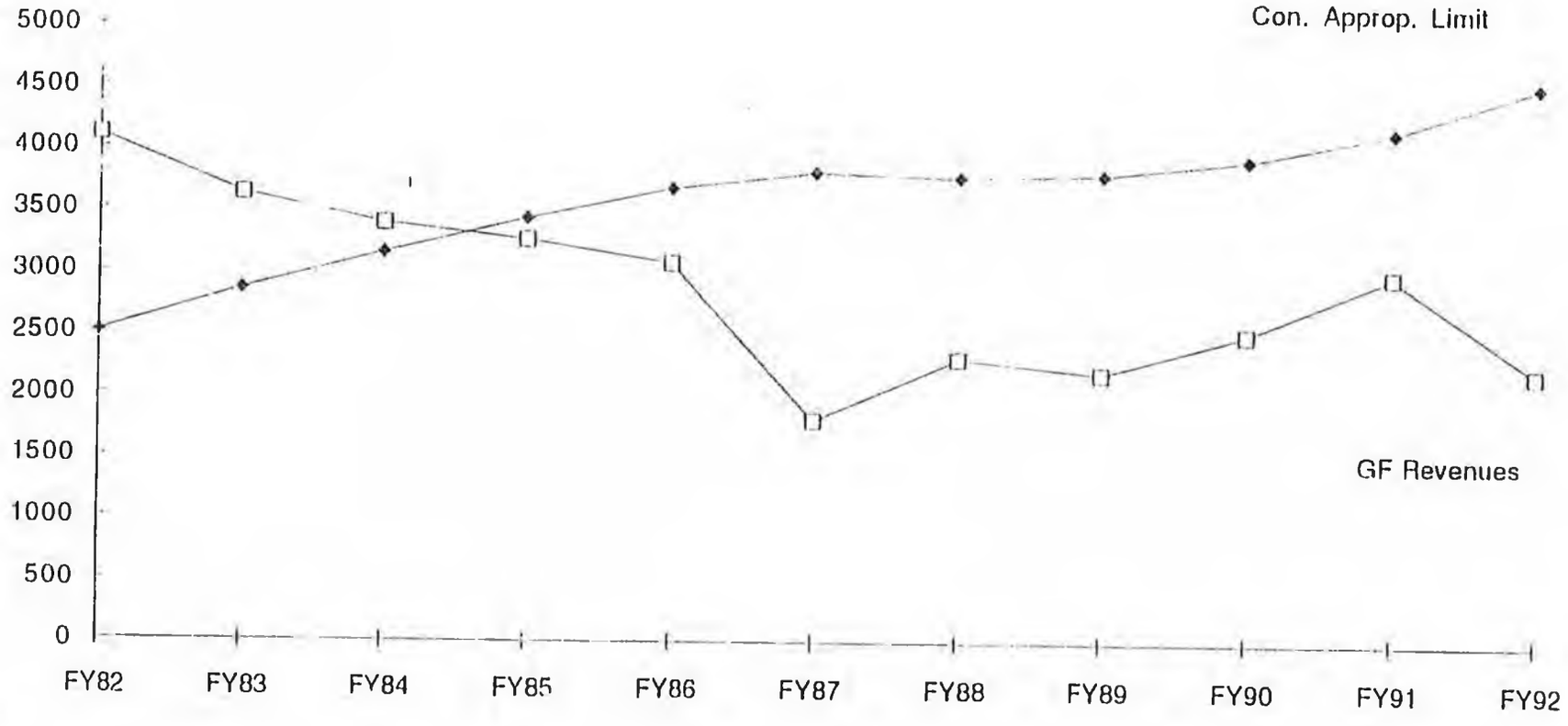
1/26/93

General Fund Revenues vs General Fund Appropriations



Senator Phillips 3-25-94

GF Revenues vs Constitutional Approp. Limit



Senator Randy Phillips, 1-26-93

SJR

9

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 9

Revision Date: 10 MARCH 1993
Dept. Affected: None
Title: Relating to an amendment to the Constitution of the United States prohibiting desecration of the U.S. flag.
BRU: n/a
Component: n/a
Sponsor: Zharoff
Requestor: Senate Judiciary Committee
COMPONENT SERIAL NO.

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY93) impact $ none

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact from this legislation.

Prepared by: Senator Robin Taylor, Chair
Phone: 465-3717
Division: Senate Judiciary Committee
Date: 03/10/93
Approved by: Commissioner/Director: Robin L. Taylor
Date: 03/10/93
Agency: Chair, Senate Judiciary Committee

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SJR

11

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

☐ *1031 W 4th AVENUE SUITE 200*
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

☐ *KEY BANK BUILDING*
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
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☒ *P.O. BOX K— STATE CAPITOL*
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

January 25, 1993

Hon. Loren Leman
Alaska State Senate
State Capitol, Room 113
Juneau, AK 99801-1182

Dear Senator Leman:

SJR 11 appears on this week's schedule for a hearing before your committee on Wednesday, January 27, 1993. This letter is to express the Department of Law's opposition to that resolution.

SJR 11 is a resolution to place before the voters for the fourth time in 13 years an amendment to the Constitution of the State of Alaska to allow repeal or annulment of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of our state constitution to allow the legislature, by joint resolution, to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass tight statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an executive-branch regulation is adopted, if the legislature believes that the regulation is not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the legislature with the power to guide regulation formation.

2. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing regulations changes law. Our constitution presently grants the power to the legislature to change law by passing a bill, which is then subject to the governor's review and

DEPARTMENT OF LAW POSITION PAPER

03-C5LH

possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without that action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislative and executive branches.

3. By repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's law-making function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

4. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. The executive branch considers comments in the development of regulations. In this way, the legislature and the public have input into the regulation-adoption process.

5. Finally, the voters of Alaska have voted down this type of constitutional amendment three times in the last 13 years. We assume that the public means what its votes have indicated, and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

If you have additional questions please let me know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: Deborah E. Behr
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Sen. Drue Pearce

Charles Cole
Bruce Botelho

Kris Lethin

Sponsor Statement for SJR-11
Senate State Affairs
1-27-93

Repeal of Regulations by the Legislature

Mr. Chairman, and members of the Committee, this resolution is a proposal to place a constitutional amendment before the voters of the State of Alaska at the next general election.

This measure, if passed, would permit the annulment of regulations by joint resolution. This would allow the legislature to take action on poorly considered regulations promulgated by state agencies. Adoption of a resolution annulling a regulation would require approval by majority vote of each body of the legislature.

Mr. Chairman, in your files you will find samples of the ballot propositions from the 1980, 1984, and 1986 general elections. You will also find the Pro and Con statements that were included in the voter pamphlets from those years.

This resolution carries a small fiscal note, $2,200 from the Division of Elections, to cover the cost of placing this question on the election ballot.

While most regulations do conform to and support the laws passed by the legislature, there are some instances where regulations have been imposed on the citizens of the state which have gone far beyond the intent of laws passed by the legislature. Once regulations are promulgated they have the force of law, even though no single person elected by the voters has approved them. I firmly believe that the framers of our state constitution never intended any governmental body, except the legislature, to have the power to write laws.

The annulment of regulations by resolution was authorized by the First State Legislature in 1959. However, in 1980 the Alaska Supreme Court ruled, in a 3-2 decision, that the constitution permits the legislature to annul a regulation by passing a **bill**. A **bill** passed by the legislature annulling a regulation can be vetoed by the governor or repealed by referendum. A **resolution** annulling a regulation can not.

The Alaska Constitution provides a system of checks and balances among the three branches of government and further provides the people of Alaska their own checks and balances through the voting booth, the initiative process, and final authority over amendments to the constitution.

SPONSOR STATEMENT

The one area that is not currently balanced is the administrative regulations written by state agencies. Regulations affect every aspect of Alaskan's lives, yet they are powerless to change them.

Mr. Chairman, and members of the committee, this measure would provide a reasonable avenue for annulment of improper regulations.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 11

Revision Date: _____

Title: Amendment to the Constitution RE: repeal of regulations by the legislature

Sponsor: Senators Pearco, Kelly, Frank, Phillips

Requestor: _____

Department Affected: Office of the Governor

BRU: Division of Elections

Component: General and Primary Elections

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE:	0	0	0	0	0	0
FUNDING:						
1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0
POSITIONS:						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would bo 53.4.

Prepared by: Charlot E. Thickstun, Director Phone: 465-4611

Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coghill

Agency: Office of the Lt. Governor Date: 1/15/93

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BALLOT PROPOSITION NO. 1

LEGISLATIVE ANNULMENT OF REGULATIONS
Constitutional Amendment

(Committee Substitute for House Joint Resolution No. 82 Amended)

SUMMARY

(As it will appear on the November 4, 1980 General Election Ballot)

This proposal would permit the legislature to annul, by adopting a resolution; regulations adopted by state agencies. Annulment of regulations by resolution was authorized by the First State Legislature in 1959; however, in 1980 the Alaska Supreme Court held that the constitution permits the legislature to annul a regulation only by passing a bill, which requires three readings of the bill and a roll call vote which is recorded. The procedures for adopting resolutions are governed by legislative rules and require only the approval of the resolution by voice vote of a majority of both houses. A bill passed by the legislature annulling a regulation could be vetoed by the governor or repealed by referendum. A resolution annulling a regulation could not.

BALLOT FORM:

A vote "FOR" adopts the amendment.
A vote "AGAINST" rejects the amendment.

FOR ☐
AGAINST ☐

VOTE CAST BY MEMBERS OF 11TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 18	Nays 0	Absent or Not Voting 2
House	(40 members):	Yeas 36	Nays 0	Absent or Not Voting 4

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal would add a new section, section 22, to Article II of the state constitution. If adopted, the proposal would authorize the legislature to annul or set aside a regulation which has been adopted by a state department or agency. In order to annul a regulation, the legislature could adopt a concurrent resolution by approval of the resolution by majority vote of the membership of each house of the legislature. The resolution specifies the date on which the annulment of a regulation would take effect.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

SECTION 22. **ANNULMENT OF REGULATIONS.** The legislature by a concurrent resolution approved by a majority vote of the membership of each house may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective on the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date.

STATEMENT IN FAVOR OF BALLOT PROPOSITION NO. 1

The legislature, when it writes a law, cannot foresee all of the possible details involved in carrying it out. The appropriate administrative agency is therefore allowed to write regulations which spell out who does what, when, where, and how. If the agency does no more than this no problem is created.

Unfortunately agency regulations are not always consistent with the intent the legislature had in passing the law. Sometimes an agency will get carried away and put out regulations that cause an unnecessary burden for the citizens. The First State Legislature realized this and provided a simple solution. The legislature could, by a concurrent resolution passed by a majority of each house, annul an administrative regulation. Such a resolution is not subject to the governor's veto.

The Alaska Supreme Court recently held, in a 3-2 decision, that the legislature must use a bill rather than a resolution to annul administrative regulations. But a bill is subject to the governor's veto. The governor can hardly be expected to approve a bill overruling his subordinates, who put out the regulation in the first place. The present governor has already vetoed one such bill.

The court ruling gives agency regulations equal standing with laws, *even though no single person elected by the voters has approved them.*

Our government is wisely based on dividin power among the three branches: legislative, executive an dicial. The current situation gives entirely too much power to the executive branch. Your approval of this constitutional amendment will restore the better balance under which the state operated from 1961 to 1980.

— Charles H. Parr
Chairman, House Judiciary Committee
Alaska State Legislature

STATEMENT AGAINST BALLOT PROPOSITION NO. 1

This is still another proposal by the legislature to free itself from the checks and balances of our constitution. Under the constitution, the legislature has all the power it needs to make laws and annul administrative regulations. This proposal does not aid the public in any way. What it does is allow the legislature to exercise its power to annul regulations in disregard of the constitutional requirements that each bill have a single subject, that each bill have three readings in each house, and that there be a recorded vote of the ayes and nays on final passage. It would also free the legislature from the executive veto and it would allow it to ignore the prohibition against special and local legislation.

The Alaska Supreme Court has recently ruled that the legislature must abide by the constitution's checks and balances on its power whenever it exercises that power, including when it acts to annul regulations. This amendment is intended to overrule the court's decision and erode the constitution's safeguards. It aids legislators, not the public, and it should be rejected.

— Katherine D. Nordale
Delegate to the Alaska
Constitutional Convention,
1955-1956

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MEASURE NO. 1

Constitutional Amendment

LEGISLATIVE ANNULMENT OF ADMINISTRATIVE REGULATIONS

(1983 Legislative Resolve No. 15 (SCS HJR 5[Jud]))

SUMMARY

(As it will appear on the November 6, 1984 General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive-branch regulations by passing a resolution. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals. The resolution is not subject to veto by the governor, and it is not subject to repeal by referendum.

BALLOT FORM:

A vote "FOR" adopts the amendment.
A vote "AGAINST" rejects the amendment.

FOR ☐
AGAINST ☐

VOTES CAST BY MEMBERS OF THE 13TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas **19**	Nays **0**	Absent or Not Voting **1**
House	(40 members):	Yeas **34**	Nays **2**	Absent or Not Voting **4**

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by concurrent resolution. The annulment is effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specifies a different date. Adoption requires three readings in each house on three separate days except it may be advanced from second to third reading on the same day by concurrence of three fourths of the membership of the house considering it. Adoption requires approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT - -

(This amendment would add the following section to article II of the Alaska Constitution.)

SECTION 22. **ANNULMENT OF REGULATIONS.** The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 1

Voters who have ever experienced irritation or anger as a result of a problem they have had with state regulations should vote in favor of Ballot Measure No. 1. While many regulations do conform to and support state laws, there are occasionally regulations which are imposed that go beyond the intent of the law and cause undue hardship on our citizens. These regulations often make no sense at all, state agency people are often at a loss to explain the meaning or sense of the regulations, and yet the state agencies involved continue to enforce them, and voters are powerless to change them.

The Alaska Constitution, patterned essentially upon the Constitution of the United States and the experience of the other states, provides a system of checks and balances among the three branches of government, and further entitles the people to their own checks and balances through the voting booth, the initiative process, and final authority over amendments to the constitution. The one major area of government that is currently not directly accessible to the people's checks and balances is the very considerable volume of administrative regulations which are written by the state agencies in the executive branch of government.

These regulations deal with every aspect of government and our lives: fish and game, education, health and social services, traffic, land development, utilities, taxes; the list is endless. And once the regulations go into effect, they have all the force of law.

The problem is, that unlike the situation that occurs with laws, the agency people who make and enforce regulations are not subject to voter approval at election time; they are either appointed by the governor or by his commissioners.

While the legislature is often made aware of foolish bureaucratic requirements by unhappy constituents, it is almost powerless to do anything about them. Currently, to annul a regulation, the legislature must pass a new bill which is then subject to veto by the governor. This puts the governor in the powerful position of being able to stop a bill that would overturn a regulation made by his own subordinates.

It was never intended by the framers of our State Constitution that any governmental body except the legislature have the power to make laws. Yet, bad regulations have been written, on occasion by state agencies, which go beyond the letter and intent of the law as passed by the legislature and in effect create law on their own.

This measure would provide a reasonable avenue for annulment of bad regulations. It would allow your elected representatives in the legislature, through a majority vote of both houses, to annul regulations in the same way they pass any legislative bill, except it would **not** be subject to veto by the governor, who clearly has a biased position in the matter.

The House Joint Resolution which created the ballot measure had bi-partisan sponsorship during the last legislative session, and was passed with near-unanimous support by both houses of the legislature.

—Mike Szymanski,
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 1

This proposed amendment to the Alaska Constitution is very similar to the one proposed in 1980 and rejected by the voters 82,010 to 58,808. Although the present version includes some improvements over the 1980 version, it is another attempt by the legislature to concentrate governmental power in its own hands.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. The regulations are adopted to implement statutes. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that could be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power among the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation; and it would empower the legislature to act in place of the executive by nullifying a specific executive-branch decision.

The annulment is like a repeal. In using this expedited procedure to annul a regulation, the legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. And it would not be providing the thoughtful analysis necessary to solve a problem. The legislature would be saying to the agency "your decision to adopt that regulation is wrong". But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor an appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the Constitution's checks and balances on its power when it exercises that power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As argued four years ago, when the voters rejected the 1980 proposal, this amendment would aid legislators, not the public, and it should be rejected.

—Katherine D. Nordale,
Delegate to the Alaska Constitutional Convention, 1955-1956

BALLOT MEASURE NO. 2

Constitutional Amendment
Legislative Annulment of Administrative Regulations
(1986 Legislative Resolve No. 60 HCS SJR 40 [Jud] am H)

BALLOT LANGUAGE

(As it will appear on the November 4, 1986, General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive branch regulations by passing a resolution that is not subject to veto by the governor or repeal by referendum. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals.

A vote "FOR" adopts the amendment. FOR ☐

A vote "AGAINST" rejects the amendment. AGAINST ☐

VOTES CAST BY MEMBERS OF THE 14TH ALASKA LEGISLATURE ON FINAL PASSAGE

House:	Yeas	31
	Nays	4
	Absent or Not Voting	5
Senate:	Yeas	17
	Nays	0
	Absent or Not Voting	3

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(HCS SJR 40 (Jud) am H)

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by its adoption a concurrent resolution. Under the present provision of the constitution, the legislature may annul a regulation only by the enactment of a bill that is subject to the veto of the governor; if the governor vetoes the bill, the constitution now requires a two-thirds affirmative vote of the legislature assembled in joint session to override the veto.

If the legislature adopts a concurrent resolution to annul a regulation under the authority proposed here, the annulment would be effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specified a different date. The concurrent resolution would not be subject to the veto of the governor. Adoption would require three readings in each house on three separate days except that it may be advanced from second to third reading on the same day by the concurrence of three-fourths of the membership of the house considering it. Adoption would require approval by a majority vote of each membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(This amendment would add the following section to article II of the Alaska Constitution.)

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

BALLOT MEASURE NO. 2

STATEMENT IN SUPPORT OF BALLOT MEASURE NO. 2

The issue is basically simple: should bureaucrats or the Legislature be the ultimate lawmaking authority?

All 60 members of the Legislature (40 House and 20 Senate) are elected by the people. They are all voted into, and out of, office by individual voters. The Alaska Constitution says, "The legislative (i.e., lawmaking) power of the State is vested in a Legislature consisting of a Senate...and a House of Representatives..." The Legislature proposes, considers, and enacts laws, known collectively as the Alaska Statutes (if general and permanent) or as the Session Laws of Alaska (if specific and temporary).

All bureaucrats who promulgate (i.e., enact and enforce) regulations (theoretically, to put laws into effect) are in the Executive Branch, headed by the Governor. Bureaucrats are not voted into office and thus cannot be removed by the people. Instead, bureaucrats are hired by the Governor or by his/her appointees, and thus can only be removed from office by the Governor or by somebody answerable to him/her. However, the regulations promulgated by the bureaucrats, known collectively as the Alaska Administrative Code, have the force of law and affect all of us, sometimes adversely.

What can be done about a law that's bad? It can be repealed by the Legislature or, in some cases, by the people directly via an initiative petition.

What about a regulation that's bad? It can only be repealed by the bureaucrats who promulgated it, up to and including the Governor. If the Legislature tries to repeal a regulation by passing a bill, the Governor will almost certainly (and always has, in the past) veto the bill so that the bad regulation stays in full force and effect.

Now, if the Legislature had the power to repeal regulations by passing a concurrent resolution (instead of a bill), then the resolution could not be vetoed by the Governor. Thus, the Legislature would be able to get rid of bad regulations, which in effect it cannot do now.

Would this give the Legislature too much power? Not hardly. Since the Legislature already has full power to enact laws, why shouldn't it have full power to repeal all laws, including regulations?

Why do Governors and bureaucrats oppose giving the Legislature such regulatory repeal power? Because Governors and their handpicked bureaucrats, which are answerable only to the Governor (and cannot be removed by the people, which can remove Legislators), don't want to lose the power they now have to promulgate and enforce any regulation they want. It's that simple.

If you feel that the Legislature should have the power to repeal regulations via concurrent resolution (not vetoable by the Governor), vote FOR the ballot measure. If you feel that bureaucrats should be the ultimate lawmaking authority, vote otherwise.

I recommend that you vote FOR. Only in this way will we realistically be able to get rid of bad regulations.

Andre Marrou
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 2

For the third time in six years, the legislature insists on confronting the voters with a proposed constitutional amendment giving the legislature a short-cut to law-making—another attempt by the legislature to concentrate governmental power in its own hands. The voters rejected a similar proposal in 1980 and the identical proposal in 1984. It should be rejected again.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. Regulations are adopted to implement statutes. They have the force of law. Annulling them changes the law. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that would be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power between the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation, and it would empower the legislature to act in place of the executive by reversing a specific executive-branch decision.

In its intent statement accompanying this proposal, the legislature admitted that the "difficulty in achieving [the two-thirds] majority [to override a veto] in opposition to the governor and the governor's administration has led the legislature to propose this amendment." In other words, the fear that the governor might veto a bill and that not enough legislators would agree to override that veto prompted this short-cut approach to law-making. That fear overlooks the governor's accountability to the voters throughout the state.

The annulment is like a repeal. The legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. The legislature would be saying to the agency "your decision to adopt that regulation is wrong." But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive-branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the constitution's checks and balances on its power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As mentioned when the voters rejected the 1980 and 1984 proposals, this amendment would aid legislators, not the public, and it should be rejected.

Katherine D. Nordale
Delegate to the Alaska
Constitutional Convention, 1955—1956

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
08/23/66	Residency Requirement to Vote for President	Article V, Section 1	SJR 1	36,667	*12,383*	75%
08/27/68	Commission on Judicial Qualifications	Article IV, Section 10	HJR 74	32,461	*12,823*	71%
08/27/68	Compensation of Judicial Qualification Commission	Article IV, Section 13	HJR 74	27,156	*17,467*	61%
08/25/70	Establishing Voting Age at 18 Years	Article V, Section 1	HJR 7	36,590	*31,216*	54%
08/25/70	English Eliminated as Requisite for Voting	Article V, Section 1	HJR 51	34,079	*32,579*	51%
08/25/70	Secretary of State Designated Lieutenant Governor	Article III, Sections 7 – 11, 13 – 15 and 25; Article XI, Sections 2 – 6; Article XIII, Sections 1 and 3; and Article XV, Section 9	SJR 2	46,102	*18,781*	71%
08/25/70	Chief Justice Election by Supreme Court	Article IV, Section 2	HJR 11	44,055	*19,58?*	69%
08/25/70	Term of Office for Judicial System Administrator	Article IV, Section 16	HJR 11	43,462	*18,651*	70%
08/22/72	Residency Requirement for Voting	Article V, Section 1	HJR 126	31,130	*20,745*	60%
08/22/72	Prohibition of Sexual Discrimination	Article I, Section 3	HJR 102	43,281	*10,278*	81%

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
08/22/72	Right of Privacy	Article I, Section 22	SJR 68	45,539	7,303	86%
08/22/72	Eliminate City Representation on Borough Assemblies	Article X, Section 4	SJR 52	30,132	19,354	61%
08/22/72	Limited Entry Fisheries	Article VIII, Section 15	SJR 10	39,837	10,761	79%
08/27/74	Voting on Constitutional Amendments at General Elections	Article XIII, Section 1	HJR 20	56,017	20,403	73%
11/02/76	Action on Veto of Bills	Article II, Sections 9 and 16	HJR 11	71,829	39,980	64%
11/02/76	Permanent Fund from Nonrenewable Resource Revenue	Article IX, Sections 7 and 15	HJR 39	75,588	38,518	66%
11/02/76	Administration and Review of State Land Disposals	Article VIII, Section 10	SJR 10	46,652	64,744	42%
11/02/76	Direct Financial Aid to Students	Article VII, Section 1	HJR 73	54,636	64,211	46%
11/07/78	Powers of Legislative Interim Committees	Article II, Section 11	SJR 16	48,078	68,403	40%
11/04/80	Legislative Annulment of Regulations	Article II, (New Section)	HJR 82	58,808	82,010	42%
11/04/80	Disqualifications of Legislators	Article II, Section 25	SJR 2	47,054	99,705	32%
11/04/80	Interim and Special Legislative Committees	Article II, Section 11	HJR 80	41,868	102,270	29%
11/04/80	Appointment and Confirmation of Members	Article III, Section 26	HJR 20	56,316	90,506	38%

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
11/02/82	Veterans' Housing Bonding Authority	Article IX, Section 8	HJR 71	111,460	*69,497*	62%
11/02/82	Changes in Commission on Judical	Article IV, Section 10	HJR 32	123,172	*53,424*	70%
11/02/82	Limiting Increases in Appropriations	Article IX, Section 16; Article XV, Sections 26, 27 and 28	SJR 4	110,669	*71,531*	61%
11/06/84	Legislative Annulment of Administrative Regulations	Article II, (New Section)	HJR 5	*91,171*	98,855	(48%)
11/06/84	Limiting Length of Regular Legislative Sessions	Artice II, Section 8	HJR 2 (Rules)	150,999	*94,299*	62%
11/04/86	Legislative Annulment of Administrative Regulations	Article II, (New Section)	SJR 40	*65,176*	94,299	(41%)
11/08/88	Resident Hiring Preference	Article I, Section 23	HJR 18	162,997	*30,650*	84%
11/06/90	Budget Reserve Fund	Article IX, Section 17	SJR 5	124,280	*63,307*	66%

Rejected by voters.

Prepared by the Legislative Research Agency, September 1992 (92.A).