

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8480 SENATE STATE AFFAIRS

Winona and Boyd took \$700 in cash and fled.

Several nights after the arrests, Lienhart was preparing dinner when she heard a TV news report that her father had begged for his life just before Boyd shot him.

"It absolutely took my breath away," she remembers. "I turned off the TV, and curled up and cried."

family and then have the power to say we can't attend? By trying her behind closed doors, the system was overprotecting her, not helping her."

Meanwhile, in a deal worked out with prosecutors, Cordell Boyd pleaded no contest to one count of first-degree murder and two counts of second-degree murder. At his request, he would serve his prison

"(The sisters) injected the human side of the victim into the process," McKay says today. "They told the court, 'We're human beings. We want to understand this system. We need to know what happened to our family.'"

Following weeks of legal wrangling between the sisters and Fletcher's court appointed-attorney, they

Winona was stripped of her privacy veil. Eight days later, cameras rolled and heads turned as the short, pudgy girl walked into the courtroom and pleaded not guilty to three counts of first-degree murder.

Later, after exhausting her appeals to avoid being tried as an adult, she pleaded no contest to the charges. Winona Fletcher became the youngest convicted female murderer in Alaska's history.

Judge Victor Carlson sentenced Cordell Boyd to 297 years in prison.

In an overflowing courtroom the next day, Carlson gave Winona the same maximum sentence. He rejected her attorney's plea to make allowances for Winona's young age, saying he felt it unlikely she could be rehabilitated.

"There's nothing to explain your doing three cold-blooded murders," the judge said to Winona. "... I don't know what it is you'd be rehabilitated over, or for, or from."

Speaking from the prosecution table, Lienhart also had words for Winona. "Sometimes," she said, "I think I'd like to sit in a room with you, and take a gun and let you know what my family went through."

Her wrists in shackles and tears streaming down her face, Winona walked out of the courtroom and into an adult prison.

The sisters haven't seen her since.

When Alaska's legislators reconvene in Juneau this January, they'll face a crime issue that's been gaining momentum since Winona aimed her gun and fired.

The Faccio murders drew statewide attention to the subject of juvenile crime and punishment. Long gone are the Ozzie and Harriet days when driving fast or stealing hub-caps were considered serious trouble for a teen ager, Alaska, like much of the nation, is seeing the handiwork of increasingly violent teens. The question is what to do about it.

Two juvenile-waiver bills are being offered as solutions. The controversial proposals would make it easier to try accused youthful offenders as adults.

Under Senate Bill 54, teen-agers 16 and older charged with murder or attempted murder would automatically be waived to adult court. Under current law, teen-agers under 18 can be tried as adults only when a judge determines it is unlikely the juvenile can be rehabilitated by the age of 19.

Sponsored by Sen. Rick Halford,



FRAN DURNER / Anchorage Daily News file photo

Fletcher, right, talks to defense attorney Valerie Tehan at the sentencing.

With taped confessions and a match made on Winona's fingerprints, investigators had the case solved. Boyd was jailed at the Cook Inlet Pre-trial Facility, and Winona at the McLaughlin Youth Center.

Some friends and family members started urging Lienhart and Nahorney to put the murders behind them — that it was time to start healing. But the sisters' plight was far from over. In some ways, it was just beginning.

JUVENILES AND JUSTICE

The sisters learned they were banned from attending Winona Fletcher's juvenile-waiver hearing, and they wanted inside. The hearing would be a secret mini-trial to determine whether the courts regarded

term in Alaska. In exchange, Boyd would testify against Winona. His version of events portrayed her as the instigator of the killings.

The sisters thought this made it all the more important for them to be allowed inside. Sharon woke up nights thinking about Winona holding a gun to her mother's head.

"I absolutely had to look her in the eye," says Nahorney. "The 'why' was tearing at my guts."

One of the reasons that Alaska's juvenile offenders are swaddled in privacy is to keep them from being publicly branded as crooks. The law operates under the assumption that since young offenders can be reformed before reaching adulthood, they deserve a clean slate so they can start over. This means their identi-

were finally allowed to attend Winona's hearing. Unfortunately, it was the last day of the three-week proceeding.

Six days after the juvenile-waiver hearing — and eight months after the murders — Judge Karl Johnstone ruled that Winona should be tried as an adult. Johnstone said it was a "missing piece," not a troubled past, that drove Winona to kill, and she was beyond the help of local juvenile corrections experts.

Today, even after spending more than a third of her life in prison, it's difficult for Winona to talk about the murders. During our conversation, she wept and tapped her fingers nervously whenever the subject was raised. She talked about her life

including kidnap or rape, but it was scaled back to get more lawmakers to support it.

A more extreme solution is being offered by Anchorage Rep. Con Bunde, who recently introduced a measure that would try teens 13 and older as adults whenever they are charged with using a weapon to commit a crime.

"These kids are no longer involved in petty crime resulting from bad judgment," says Bunde. "They're career criminals."

Should juvenile offenders be locked up like adult criminals, or should society try to rehabilitate them, and turn them into productive citizens?

"We now have some very sophisticated 16- and 17-year-old murderers, and we need to do what we can to see the system deals with them," says Sen. Loren Leman, one of SB 54's co-sponsors. "With such serious crimes, the responsibility should be placed on the teen-ager, not society."

Adulthood was legally defined as the age of 18 nearly 100 years ago, when the first juvenile court was formed in Illinois. The goal of the system was to reform — not punish — "wayward youth." Illinois now sends teen-agers charged with murder, rape or armed robbery to adult court.

"Things are so different now," says Leman. "Teen-agers' crimes are worse; so are their weapons."

Alaska legislators have been grappling with the juvenile waiver issue for nearly a decade. Since the Faccio murders, some form of the proposal has been introduced each session, only to die in committee.

Lienhart and Nahorney write letters and speak out on juvenile waiver whenever they can. This time around, their pitch is backed by more statistics and victims than ever.

Anchorage Police Department statistics show the number of Anchorage juveniles arrested for violent crime during the first half of 1993 is nearly double the number for the entire year of 1991. And while just one juvenile was arrested for murder in 1991, five juveniles have been arrested for murder so far this year.

Even so, opponents argue, changing a court procedure won't change juvenile behavior, and putting troubled teens in the adult system may only make matters worse.

"Do we really want teens incarcerated with seasoned criminals?" asks former state legislator Joe Josephson. "Many of these young offenders are victims themselves."

Winona Fletcher was not your run-of-the-mill teen criminal, says local criminal defense attorney Carmen Gutierrez. "We had this one horrific crime. Should we use that as the



FRAN DURNER / Anchorage Daily News

Sharon Nahorney talks to people who stopped at the Victims for Justice booth at the Alaska State Fair in August.

standard to making sweeping changes?"

Some critics also argue that the proposal takes discretion away from judges who are best equipped to decide what's right for the teen-ager and society.

If either version of the juvenile-waiver bill gets enough votes to become law, Alaska will join 24 other states in automatically sending certain juvenile offenders to adult court.

THE RIGHTEOUS SISTERS

The Faccio murders — and how Lienhart and Nahorney reacted to their treatment by "the system" — ignited a flourishing victims' rights movement throughout the state. The sisters formed Victims for Justice and altered the way Alaska law treats victims.

"As horrible as the crimes were," says longtime Anchorage prosecutor Stephen Branchflower, "they were a catalyst to change. That was our wake-up call."

Spurred by their own experiences, the sisters took the lead in making Alaska's crime laws tougher and more pro-victim. Among the changes:

- Where before a person had to be physically injured to be a "victim," the legislature in 1989 expanded the definition to include people close enough to the victim to be emotionally devastated by the crime.

- Legislation was also passed allowing victims to have their say at sentencing hearings in otherwise private criminal juvenile trials.

- In 1991, the legislature cleared the way for law enforcement officers



FRAN DURNER / Anchorage Daily News

Lienhart speaks at a Victims for Justice tree ceremony on the park strip for the family of a murder victim.

much sooner had it been legal to keep the fingerprints of juvenile offenders on file.)

• Finally, when juveniles commit violent crimes, the doors of their court proceedings are now open to their victims.

A HELPING HAND

Lienhart and Nahorney formed their victims' group mainly to change Alaska law. But their role expanded after Anchorage was hit by another murder spree two years after their parents were slain.

Lienhart recalls the afternoon in May 1988 when she was seated in a downtown restaurant in the company of a man on the brink of exploding. He clenched his fists as he spoke and his eyes brimmed with tears. His name was John Newman, and he was suffering more than even Lienhart could comprehend.

In March 1987, Newman's wife and two young daughters were found dead in the family's Midtown apartment. Nancy, 33, and Melissa, 8, had been strangled and raped. Angela's throat had been cut. She was only 3. The bodies of all three had been mutilated.

Now, one year later, Newman was in town to testify at the trial of his family's killer. Lienhart had introduced herself to Newman after the district attorney's office called her to say he would probably need some emotional support getting through the trial.

The suspected killer was Newman's nephew, Kirby Anthony. Near the time of the murders, he had been living with Newman's wife and two daughters while Newman was away at trade school in California.

At the start of the trial, while meeting with Lienhart, Newman spoke about his struggle to start over in the small Idaho town where his family lived before moving to Alaska.

"Everybody there knew what happened to him," Lienhart recalls. "He told me how one day a fellow approached him on the sidewalk to ask how he'd managed not to kill himself yet."

In Anchorage, Newman was a dam waiting to burst. Lienhart encouraged him to talk about his feelings, reminding him that she, too, had been full of rage over the murders of her parents and aunt.

"We both had suffered, but I felt his struggle was much greater than mine ever was," she says. "I had my husband and kids to go back to. He had nothing."

Each day of the trial, both sisters stayed at Newman's side. During breaks, they'd walk from the courthouse to Cook Inlet, where he threw rocks in the water to relieve pressure. One day, Lienhart took him bike riding. Another day, she and her husband took him out on their boat.

She was also there when — nearly



FRAN DURMER/Anchorage Daily News

Janice Lienhart

a year after his family's murders — he finally exploded from grief. It happened early in the trial when the jury was out of the room. Anthony turned in his seat at the defense table and looked at his uncle. "I love you, John," he taunted.

Newman struggled to control himself. Then he ran from the courtroom with Lienhart not far behind. She found him hurling objects at the walls of his downtown hotel room. He yelled. She talked.

"I told him how my husband went to the shooting range after my parents were killed and that it had really helped him," she says.

After getting her husband's gun, the two of them drove to the shooting range south of Anchorage, where Newman fired bullets at targets until late in the afternoon.

"It really freaked out the police when I told them," Lienhart says, "but it sure helped John."

Both sisters were seated near Newman in the courtroom when the jury found Anthony guilty of first-degree murder.

At that moment, the two realized they could do a lot more than improve laws. They could help victims get through the agony of grief and the rigors of trial.

"When I was in Anchorage ... I was dying inside," Newman says today from his Boise home. "Everyone was so focused on the trial. But Janice and Sharon focused on life ahead. I grabbed that, and didn't let go."

So far, the sisters and their organization have assisted 800 victims of crime. Their names read like a who's who of Alaska crime tragedy: Dave and Valerie Lemaire, whose 11-year-old daughter, Mandy, was raped and fatally shot near Glennallen; Zenovia Lestenkoif, an Aleut widow and mother of 17 children, whose 23-year-old son died after being shot in the face on St. Paul Island; Chui Huang of Anchorage, whose husband and 2-year-old daughter were murdered over a gambling debt.

"Victims for years had felt left out," remembers Assistant District Attorney Branchflower. "Law enforcement just didn't have the time to sit down and listen to their

willingness."

THE GROWN-UP WINONA

Winona Fletcher is no longer the frumpy, pug-nosed girl with hair hanging over her face who could hardly read or write. In her place is a slimmer, 22-year-old woman with an attractive face and bright smile. Her coal black hair, neatly brushed, falls several inches past her shoulders. She is well-spoken; her handwriting is neat, with few grammatical errors.

Gone, says Fletcher, is her selfish I-hate-the-world attitude. Gone, too, is her partner in crime, Cordell Boyd. At 28, he remains imprisoned at Seward's Spring Creek Correctional Center, where he's not eligible for parole until the age of 53. Fletcher will be eligible when she's 60.

"I haven't talked to (Cordell) since the sentencing," she says, speaking from behind a glass partition in a visiting booth. "I don't hate him and I'm not angry. I just think we both need to get on with our lives."

Dressed in a low-cut, bright red prison jumpsuit, Fletcher talks about her accomplishments since being locked up. Like earning her high school diploma, becoming a carpenter and being just a few credits shy of acquiring an associate of arts degree.

According to Fletcher, she can cry now. She prays. She cares about people. She attributes this alleged transformation to years of drug abuse counseling, group therapy, and faith in God — but mostly to the birth of her child.

"She's really changed me," Fletcher says with enthusiasm. "She cares about me, all the time. She's given me the will power to change."

Fletcher became pregnant in early 1987 — only weeks after she was sentenced — when a friend was allowed to visit her for an hour in Anchorage's Sixth Avenue Jail.

"When my daughter was born, it really hit me," she says. "I cried for two days straight when they took her away. I realized the value of a human life. What I had done ... really hit."

Her daughter, now 6, is being raised by Fletcher's mother in Anchorage. Fletcher and the girl talk on the phone at least once a month.

"My daughter knows I did something very bad, but doesn't know what. Someday, I will tell her the best I can, but not now. She's too young. It would really hurt and confuse her. She just couldn't ... it would mess her up."

Fletcher's mother has "totally changed," claims the prisoner — she no longer drinks or smokes. She's in counseling. The abusive boyfriend she and Winona used to argue over is long gone. Today, they argue over different matters — like the correct way to raise a child.

"My mom is giving her everything she wants," Fletcher says. "I keep telling her that's wrong. That if she wants something, she's got to earn it.

see them in another place, another time. She grapples for an answer when asked what she would say to them. She squirms, wrings her hands and weeps. Finally she responds: "It's so hard. ... I don't want to sound insincere. How do I tell them?..."

MEETING THE OFFENDER

Nahorney reacted with shock to her sister's suggestion that the two meet with Fletcher in Juneau.

"I've really had to do a lot of analyzing of my feelings," she explains. "Victims have to be ready to meet their offenders. I'm not."

Besides monitoring judges, helping victims and making changes in Alaska law, the sisters — through Victims for Justice — started a mediation program in which juvenile offenders meet their victims face to face.

They've worked with McLaughlin Youth Center officers, attorneys and youth advocacy groups to make the program permanent. To date, seven teen-age offenders have sat down to talk with their victims. Each offender apologized — and each victim accepted the apology.

The sisters believe the program has re-socialized treatment for juvenile offenders and their victims in Alaska. But that doesn't mean Nahorney is personally ready for the same treatment.

She blames Fletcher for a lot that's gone wrong in life since the murders — like her husband's heart attack and the couple's divorce after 19 years of marriage. That adds up to a lot of anger.

"Those juveniles (in the mediation program) didn't wipe out a family like Winona did," Nahorney says. "All these years, knowing Winona was locked up somewhere far away made me feel comfortable, like having something safely tucked away in a drawer. When she came back, a lot of my anger resurfaced. The idea of seeing her was just too much."

Even so, Nahorney thinks a meeting will happen.

"It will come; I just have to be emotionally ready for it," she says.

Her sister doesn't have to wait.

"I could see Winona now," Lienhart says. "God says, if someone offends you, you go to that brother and talk to them, so that's what I'm prepared to do. Still, I'll wait for Sharon. When she's ready, and if Winona's ready, we'll go."

Lienhart even knows the first question she'll ask. It's the question that's haunted her since learning of her family's 14-year-old female killer nearly a decade ago.

"I want to know why, when Winona saw my mother crying and praying, and when she saw my dad begging for his life ... when she saw their fear, how could she still kill them?"

□ Linda Wedford is a freelance writer living in Anchorage.

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Justice?

Innocent victims find indifference

Alaska, like the rest of the country, strives to have a law enforcement system in which justice is blind. For those accused of crimes, it's a noble and appropriate goal.

But as presently structured, the criminal justice system too often is blind to the plight of innocent victims and witnesses. All the attention focuses on uncovering suspects and proving their guilt or innocence. The needs of victims and witnesses are an afterthought.

Take the case of Eagle River resident Rob Chamberlain. He was driving his \$5,000 sports car when his passenger was shot and killed by another motorist. His car has been impounded as evidence until the suspect goes on trial. In the meantime, Mr. Chamberlain has to bum rides for his lengthy trip to work, while he's stuck paying for a car he cannot use.

In a system that cared about justice for innocent bystanders, there would be a simple process for helping people like Mr. Chamberlain. Society has a legitimate need to take his car for evidence. It's less clear why society should be allowed to take it without just compensation.

The violent crimes compensation board, welcome as it is, provides no relief here. The board does not compensate victims of property crimes. It cannot pay for economic losses that an investigation or prosecution inflicts on innocent witnesses.

One reason society doesn't do more for victims and witnesses is money. The \$600,000 a year Alaska spends on victims of violent crimes is barely enough to meet the demand. Helping innocent witnesses with their losses and expenses could cost considerably more.

But then, no one ever said justice is cheap.

Wounded by a gunman, hobbled by the system

Injured bystander struggles to piece life together

By SHEILA TOOMEY
Daily News reporter

John Miller was strolling down Fourth Avenue picking breakfast out of his teeth when he saw the guns.

It was 5 a.m. on an August Sunday and Miller had stumbled into an armed confrontation between the Anchorage police and Roy Fox, a deranged loner with a stolen shotgun.

As Miller remembers it, he had a choice of getting shot by Fox, crouched in the doorway of an Army-Navy store, or shot by the police under the assumption he was involved in whatever was going on.

When Miller dreams about what happened, he dreams about being trapped.

As it turned out, his decision to just keep walking, looking as uninvolved as possible, didn't work. Fox nailed him in the back, right at the belt line, lifting Miller off his feet and slamming him to the pavement, where he lay in terror as the

police fired more than 20 shots, hitting Fox 15 times.

It all happened more than a year ago and, as angry as he was at Fox, Miller is angrier at what has happened since, namely, not much.

Miller, 32, was a building trades worker before the shooting, working job-to-job as a subcontractor on renovations. He had no medical insurance. He had just finished a home burned out in a fire and was scheduled to start another job in a few days.

He had his own apartment and an unremarkable life that suited him fine.

Now he has a hole in his back you could put your fist in. He spent 2½ months in the hospital, had three operations and still has a bunch of birdshot in his body. He has nerve damage in his back, his left thigh is numb and doctors have told him to get ready for arthritis.

"I really wanted to know that," Miller said Wednesday, sitting in the living room of his mother's Sand Lake condo which he now shares. "Like, here I am in my prime and I'm looking forward to having arthritis in 10 years."

He can't do construction any

Please see Back Page TALES



John Miller says he's angry at the way assistance agencies have let him down after his 1989 injury.

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THE BACK PAGE

TALES OF THE CITY: Wounded bystander tries to rebuild his life

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more because he can't lift heavy weights. He says all he wants is re-training and a chance to work at a decent job like the one he lost.

As Miller remembers it, the first sign that the world didn't care much about him was when the hospital told him to stop going to physical therapy because state emergency medical assistance didn't cover it. His \$59,000 hospital bill was taken care of but out of hospital medi-

cal expenses were his problem.

He had lost his apartment. He had no income. So he went to welfare for help. He wasn't disabled enough to qualify, but they offered \$120 a month toward rent. "I couldn't even find a roommate who would let me move in for that."

He ended up back home with mom, an arrangement that neither finds satisfactory.

"Luckily, I had someone to stay with," Miller said.

"Where would I go, the Brother Francis Shelter?"

At vocational rehabilitation they gave him lots of tests and made lots of appointments. Either he was too disabled for a program or not disabled enough, he said. They told him to get some special tests — he's not sure what — but they cost money Miller doesn't have. No tests, no re-training program.

And he still hadn't figured out how to get the physical therapy he needed.

"The baddest part about it, I needed it so bad at the time," Miller said Wednesday. "They should have helped me at the time."

By now the bills were piling up. Doctors who had extended credit figured out Miller wasn't eligible for anything reliable. He applied for help to the Violent Crimes Compensation Board, but he wasn't an emergency and the board only meets quarterly. He and the board's executive director, Nola Capp, still disagree about whether he has sub-

mitted all the necessary paperwork.

Miller is not adept at working the system. He's not sure exactly what he applied for and exactly why he didn't get it. He says he filled out all the forms people gave him and went where they told him to go but nothing happened. "They're just giving me a runaround," he concluded.

On Oct. 17, the board paid \$5,000 of Miller's outstanding medical bills and approved funds for physical therapy — a year after he

got out of the hospital. "Of all the people in the world he was purely innocent," Capp said. "But the board has to have regulations. We can't just give out money."

Russ Cusack over at vocational rehab says he'll check Miller's case file and see what he can do.

Miller still has flashbacks about the shooting, dreams that wake him up with the sweats. But he's madder at the system now than he ever was at Roy Fox.

“The Spark of Justice”: A Call for Enacting A Constitutional Amendment

By Steve Twist

The welcoming ceremonies at the Fourteenth Annual Conference followed traditional form, with a warm greeting from Pima County Attorney Stephen Neely and a thoughtful address by NOVA President Daniel Rosenblatt, among others. Greetings from Attorney General Robert Corbin, delivered by his Chief Assistant, were expected to lean more towards a friendly welcome than towards the thought-provoking. If that is what the participants wanted of Steve Twist, they were disappointed. Judging from their reactions, however, they were anything but disappointed.

As a service to the many conference-goers who asked for a copy of Steve Twist's stemwinder on victim rights, we are reprinting it here:

Steve comes by his impatience the hard way. As a principal supporter of a victim rights amendment to the Arizona constitution, he led the fight that found that proposal just one vote short of ratification in the Arizona legislature last session. He and other victim advocates in the state are determined to get their proposal on the ballot through a petition drive. It seems likely that they will succeed. Steve's speech follows.

Good evening. It is my great privilege to join Steve Neely in welcoming you to Tucson and to the warm hospitality of Southern Arizona.

It is highly appropriate to have selected Tucson as the host site for this meeting. Steve Neely has been one of the pioneers of victim/witness programs among prosecutors in America and his program, run by Vicki Sharp, Sharon Hochman, Stuart Gellman and the many fine and dedicated staff and volunteers, is consistently regarded as among the best in the nation.

It has brought new sensitivity to the business of prosecution by recognizing the plight of victims as they suffer not only the ordeal of the crime, but also the ordeal of the criminal justice system. Pima County's program helps victims



Steve Twist speaks at the opening ceremonies. The platform is a made-for-movies train, at the second stage of Old Tucson. Other whistle-stoppers are (l. to r.) Dan Rosenblatt, Marlene Young, and Stuart Gellman.

cope with both ordeals. We are proud to have them in Arizona.

But the strength of their program has also taught us that new frontiers must be explored, that new answers must be found. Here in Tucson, as elsewhere in Arizona and America, the most caring and effective victim/witness program cannot protect victims from a criminal justice system which is itself at times, destructive, and deaf to the cry for victims' rights.

The best counseling programs are strained to breaking when the system itself causes the emotional pain which needs treatment.

The most caring prosecutor, who regularly consults with victims about their cases, cannot overcome the trauma caused by the incessant delays he must report, or the procedural setbacks, the suppression of evidence, the repeated releases of defendants, or sentences that neither deter nor punish nor protect future victims.

The strongest victims' rights statutes will never protect victims if they are

always second to the constitutional rights of defendants . . . or for that matter, to the interests or convenience of the judges or the lawyers.

The best-funded compensation and assistance programs, even if they had badly-needed additional revenues, will never compensate for the injustice or the indignity of our systems' treatment of victims.

Many of us in the victims' movement believe that we must seek more fundamental reforms in the justice system if we are to make our dreams of justice a reality.

In 1988 in Arizona, over 200,000 of our neighbors will be victims of either murder, rape, robbery, aggravated assault, or serious theft. As they begin to cope with the crime and the justice system, in many ways we force them to face it legally alone. In my state, victims have not one constitutional right or remedy to protect them.

They have no right to a speedy trial.

They have no right to privacy.

They have no right to a lawyer.

They have no right to refuse a pre-trial interview.

They have no right to be informed or consulted.

They have no right to be in the courtroom.

They have no right to finality to their ordeal.

They have no right to be heard until the trial is over.

They have no right to access to the entire court record.

They have no right to due process.

In short, they are treated as a hard piece of evidence in our system.

Having failed victims in our duty to protect them from crime, we then subject them to a system which affords them no constitutional rights and they are brutalized by it.

Many of us believe the answer lies in constitutional reform. Unless victims' rights are made a part of our basic law — our constitutional law — victims will always be second-class citizens. It is time for this atrocity to stop.

As those of us in Arizona know, our

challenge is great and our opposition is strong. Not all the venom in my state is found in the creatures of the Arizona desert.

Of course none of our opponents are against "victims' rights". The strength of the movement you have forged has captured the agenda and they are afraid to oppose us.

They are for "victims rights but . . ." — but they don't believe those rights should be in the Constitution.

They are for victim rights but

. . . they are not for the right of the victim to be in the courtroom throughout the trial;

. . . they are not for the victims right to a speedy trial;

. . . or reasonable finality;

. . . or to refuse pre-trial interviews;

. . . or to have all relevant evidence introduced so the truth of what happened can fully be heard.

They are not for the child victims

right to testify outside the threatening presence of the defendant.

They are not for the victims' right to prison sentences which will protect future victims.

Those who say they are for "victim rights but

“ . . . you've seen it in the eyes of caring police and dedicated prosecutors; you've seen it in the mirror.”

are deceitful, fraudulent, and they have no right to associate with you or carry the banner which you have raised.

Our movement is the most important civil rights movement of the Eighties and Nineties. Our success will depend on courage and spirit and perseverance.

Napoleon said there are only two powers in the world, the sword and the spirit. In the end, he said, the sword will always be conquered by the spirit.

For now, it seems, the sword is in the

hands of the criminal and we have lost the spirit to overcome him.

But in all the injustice we see, in all the victims' pain, there is a spark. You know that spark. You have seen it in the eyes of those you counsel and comfort; you've seen it in the eyes of citizens who

can no longer stomach the repeated honor stories which daily come from our system; you've seen it in the eyes of caring police and dedicated

prosecutors; you've seen it in the mirror.

It is the spark of justice. Remember when you first felt that spark, when your hearts were touched and filled by it. Inspire yourself again for this cause and you will inspire others. Use this conference to re-ignite the spark, or feed it with the oxygen that is here. Share your ideas, share your vision of our new frontier, and we will see justice for victims in our day.

Thank you. □

News from the States:

California Updates "Miranda" Warnings

For years, victim advocates have spoken of a "Reverse Miranda" warning or card — one that would routinely be used to read to the victim that person's rights.

Due to an initiative of the California Youth Authority and the California Corrections Department — supported by the state's major law enforcement associations — victims there may soon receive such a recital of their rights as a standard part of filing a crime report.

The following is an announcement describing the new program.

"You have a right to remain silent . . ." That's a phrase that has become well known to law enforcement and criminal suspects with whom they deal. If police agencies, the California Youth Authority (CYA), the California Department of Corrections (CDC) and victim rights advocates have their way, crime victims will have their rights explained at the scene of crimes too.

That is why the CYA, CDC and

major law enforcement organizations are distributing cards to law enforcement officers throughout the state that can be used not only to advise suspects of their rights, but the victims of their rights as well.

The cards will be accompanied by a letter signed by Cal Testame, Director, CYA; Jim Rowland, Director, CDC; Glen Craig, President, California Peace Officers Association (CPOA); Craig Moscham, President, California Police Chiefs' Association; and Sherman Block, President, California State Sheriffs' Association.

Although victims of crime in California have had these rights for years, only the suspects have had their rights read to them at the time of arrest. This card will inform the victims of their rights under the law and provide them with information for assistance.

The local law enforcement agencies are being encouraged to use the same information with local assistance phone

numbers for distribution to victims, who may not remember the information given to them by the officers at the scene of the crime.

The implementation of the project is the accomplishment of a cooperative effort between law enforcement associations, CYA, CDC, and the office of Governor George Deukmejian, who has fully supported the project.

If all those involved have their way, "As a victim of a crime, you may . . ." will become as well known as the Miranda warning given to criminal suspects.

For more information, write:

Sharon English
California Youth Authority
4241 Williamsborough Drive
Sacramento, CA 95823 □

Substance abuse is an almost universal problem among criminals. New misdemeanor centers with on-site alcohol screening, and residential treatment programs in existing facilities are all cost-effective ways to combat the problem.

The Administration recognizes the need for additional high security beds at the Spring Creek Correctional Facility. The Department of Corrections has been operating over emergency capacity for more than a year. The Department will be reporting its projections for the future jail and prison populations in the upcoming weeks. The report will identify the immediate and long-term needs to expand the correctional system.

More prison beds are not the department's only answer to reducing crime. The department can achieve impressive success with innovative, cost-effective programs which emphasize offender responsibility and can lower recidivism.

New policies place the lowest risk offenders in the lowest cost placements so that secure prison beds can be used for the most dangerous criminals. Offenders who don't pose an immediate risk to the public are being placed in pre-release programs to help reduce recidivism. These programs emphasize personal responsibility by requiring community work service and requiring offenders with jobs to pay for part of the costs of their incarceration. Most prisoners will be returning to society eventually, and these programs insure a careful, closely supervised reintegration to help them avoid returning to crime after release from prison.

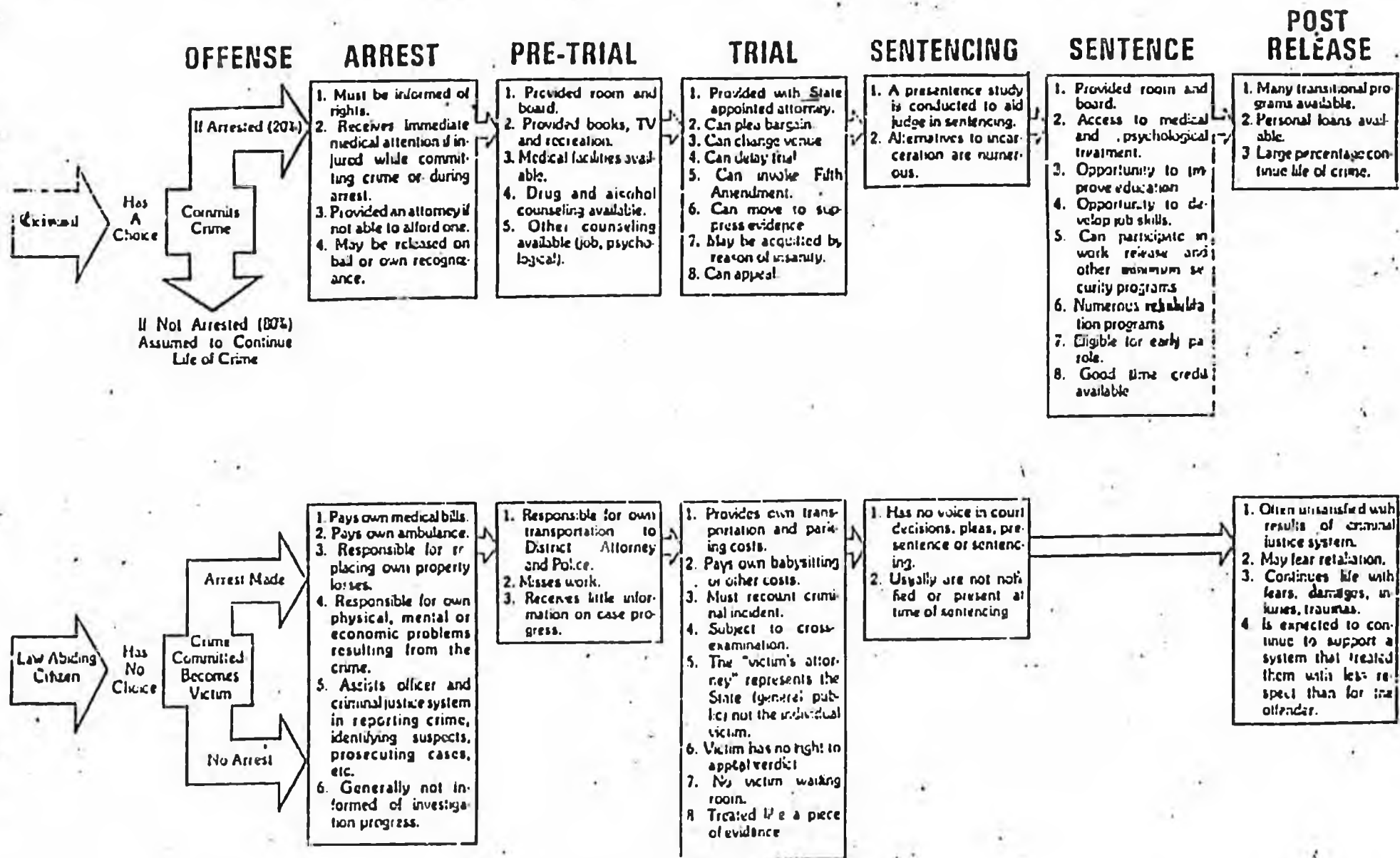
Constitutional Amendment -- House and Senate Resolutions have been introduced by Rep. Brian Porter and Sen. Dave Donley for Constitutional amendments which would change the emphasis of penal administration in Alaska. The Constitution should clarify that public protection, deterrence, and reaffirmation of societal norms are chief goals of incarceration. The rights of the offender must be balanced with the rights of victims and law-abiding citizens.

Offender Fees -- Increasingly, offenders are being required to pay their fair share, just like other Alaskans. The Administration is exploring ways to expand the state's ability to collect fees for certain medical, program, housing, and supervision services. Contracting out the fee collection to the private sector in some instances may be an efficient way to increase offender responsibility as well as offset the expenses of the correctional system.

Alternative Punishments -- Highly structured day reporting programs can be operated out of existing Community Residential Centers. Graduated levels of

See Minutes: Alternative Punishments

THE CRIMINAL INJUSTICE SYSTEM



WORK ORDER REQUEST FORM

W.O. [18] LS-1836

KEYWORDS: UNIFORM RULES ASSIGNED: Luckhaupt

REQUEST FOR: Resolution TAKEN BY: Luckhaupt

SUBJECT: Suspend UN RLS: Title Change for HB 43

REQUESTED FOR: SC SSTA BY: Portia PHONE: 465-4522

DELIVER TO: Sen. Leman, Attn. Portia, Cap. 115

INSTRUCTIONS: Do specific title change resolution for CSHB 43(FIN), rolling in "and penal administration" on p.1, line 2, following "victims".

OBTAIN	SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED: <u> X </u> DIRECTOR, LEGAL SERVICES
--------	---

REVIEWED _____ IN <u>03/17/94</u> DUE <u>TODAY</u> TYPED: Draft _____ Date _____ Final _____ Date _____ PROOFED _____ DELIVERED _____	SPECIAL INSTRUCTIONS to TYPING/PROOFING _____ _____ Request for DRAFT
---	--



Senate Committee On State Affairs

Dept. of Law - Margo Kuehl

(timely disposition)
① Balance Court. Rights —
defendants continuance
may/will be better kept in line;
will help state. Help
Prosecutors protect public

② Right to confer w/ Prosecution.

③

14 states passed Const. Amend.

13 states pending (as of: 4/93)

SJR

6

ALASKA STATE LEGISLATURE

Anchorage Office:
3111 C St., Suite 530
Anchorage, AK 99503
907-561-7616



While in Juneau:
P.O. Box V
Juneau, AK 99811
907-465-4958

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

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

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.

Alaska State Legislature

7

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

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 may 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

Research Request on Initiatives

April 30, 1991
Page 2

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

April 30, 1991
Page 3

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.
20-11-2.	Initiative — By petition to legislature.
20-11-3.	Submission to people.
20-11-4.	Referendum by petition.
20-11-5.	Effective date of legislation.
20-11-6.	Effective date of direct legislation — No veto.
20-11-7.	Procedure for direct legislation — Sponsors.
20-11-8.	Circulation sheets — Form of.
20-11-9.	Form of initiative petition.
20-11-10.	Form of referendum petition.
20-11-11.	Printing of petitions.
20-11-12.	Sections of circulation sheets.
20-11-13.	Fees — Bids from printers — Duties of lieutenant governor.
20-11-14.	Misconduct of electors and officers — Penalty.
20-11-15.	Verification of petition — Clerical errors disregarded.
20-11-16.	Sufficiency of signatures — Determination and remedies.
20-11-17.	Ballot title — Duties of attorney general and Office of Legislative Research and General Counsel.
20-11-18.	Repealed.
20-11-19.	Manner of voting.
20-11-20.	Return and canvass — Conflicting measures — Law effective on proclamation.
20-11-21.	Direct legislation in counties, cities, and towns.
20-11-22.	Petitions — Number of signers.
20-11-23.	Procedure — Arguments.
20-11-24.	Time for filing referendum petitions.
20-11-25.	Submission to people.

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.

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

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.

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 552, 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 550.

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 550.

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 ¾ 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 4-¾ 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 petition 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.

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."

Re Initiative petition.

Where initiative petition contained over 300 names less than required, secretary of

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 ⇄ 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.

state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. Simons v. Monson (1936) 95 U 652, 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 _____ 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 _____), and, if the petition is against less than the whole act, set forth here _____ part or parts _____ which the referendum is sought), passed by the _____ session of _____ 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."

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.

Collateral References.

Statutes ⇄ 344, 347.

82 CJS Statutes § 122.

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

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.

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. 1933 & 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 1/4 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 followed

The 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.

Municipal referendum.

This section applies to a municipal referendum. Accordingly, names of signers must be checked. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

20-11-16. Sufficiency of signatures — Determination and remedies.

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

Collateral References.

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

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. 55, § 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.

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, and 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.

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.

Compiler's Notes.

The 1991 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 referendum were authorized by previous ordinance.

Change in dates of the bonds on, the 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.

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

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.

igned by legal voters thereof equal in number to the following percentages of 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 be signed by 10%.

(b) If the total number of such votes does not exceed 10,000, but is more than 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 than 500 the petition shall be signed by 15%.

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

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

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

Compiler's Notes.

The 1981 amendment inserted the subsection and subdivision designations; inserted references to counties throughout the section; and made minor changes in phraseology and punctuation.

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 towns the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof shall be similar to the procedure prescribed by this chapter for the state initiative and referendum, and the duties required of the county clerk and the lieutenant governor by this chapter as to state legislation shall be performed as to such county or municipal legislation by the county clerk, city recorder, or town clerk, as the case may be; the duties required of the governor shall be performed by the chief executive officer of the county, mayor, or president of the board of town trustees, as the case may be; and the duties required of the attorney general shall be performed by the county, city, or town attorney, as the case may be. The provisions of this chapter shall apply in every county, city, and town in all matters concerning the operation of the initiative and referendum in its county or municipal legislation. The printing and binding of the "local voter information pamphlet" shall be paid for by the county, city, or town; distribution of the pamphlets shall be made to every voter in the county, city, or town, so far as possible, by the clerk or recorder, as the case may be, either by mail or carrier, not less than eight days before the election at which the measures are to be voted upon. Arguments supporting county or municipal measures shall be filed with the clerk or recorder, as the case may be, not less than 30 days before the election at which they are to be voted upon; and opposing arguments 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 sponsor, 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. Kasmussen* (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

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, h. 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, 10-3-705, 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* 981) 631 P 2d 885.

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 it to the next session of the governing body. The governing body shall either ordain or 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 first 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

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.

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.

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

Section	
20-11a-1.	Measures to be submitted to voters, referendum measures — Preparation of argument for adoption.
20-11a-2.	Argument against adoption — Filing of arguments.
20-11a-3.	Failure to file argument — Voters' requests for argument — Ballot arguments.
20-11a-4.	Initiative measures — Arguments for and against — Voters' requests for argument — Ballot arguments.
20-11a-5.	Copies of arguments to be sent to opposing authors — Rebuttal arguments.
20-11a-6.	Impartial analysis of measure — Determination of fiscal effects — Explanation of ballot marking.
20-11a-7.	Voter information pamphlets to be prepared.
20-11a-8.	Voter information pamphlets — Contents.
20-11a-9.	Voter information pamphlets — Additional specifications.
20-11a-10.	Voter information pamphlets — Distribution by newspaper supplement.

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

Age group	1980	
	Number registered	Number voting (b)
17	2,132	1,342
17	259	158
20	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
0	2,377	1,597
27	403	303
46	581	437
15	6,230	4,740
42	2,944	2,242
99	1,717	1,318
10	1,291	980
46	1,759	1,295
19	2,015	1,549
11	760	523
40	2,065	1,540
78	1,153	2,524
20	726	3,910
13	2,353	2,052
23	1,482	893
8	2,841	2,100
0	496	364
0	856	641
12	297	248
22	323	384
22	3,766	2,976
0	653	457
3	7,898	6,202
4	2,775	1,856
7	(c)	302
4	5,887	4,284
7	1,458	1,150
9	1,569	1,182
7	3,754	4,562
0	531	416
5	1,236	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

not cast in presidential elec-
cluded from totals for persons

ELECTIONS

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		D		100	LG	SP	Y	LG	LG	Y	\$100.00
Alaska	D	D	15% EV	10% EV	SS	ST	N			Y	
Arizona	D	D			AG	SP	N	AG	AG	N	
Arkansas	D	D			AG	SP	N	AG	AG	Y	\$200.00
California											
Colorado	D	D					N	(b)	(b)	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	I	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 amounts 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 (see key below)		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	Statute
Alabama		10% TV from 2/3 ED	1 year	Y	LG		
Alaska		10% VG	2 years		SS	4 months	4 months
Arizona	15% VG	10% VG			SS		
Arkansas	10% EV, 5% each from 1/3 co	8% VEG, 5% each from 1/4 co			SS		
California	8% VG	5% VG	150 days	Y	SS	151 days	151 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		10% VG			SS		4 months
Idaho			2 years	Y	SS	6 months	
Illinois	8% VG						
Indiana							
Iowa							
Kansas							
Kentucky							
Louisiana		10% VG	1 year		SS		
Maine							
Maryland							
Massachusetts	5% VG, no more than 25% from 1 co	5% 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 2/3 co	5% EV, 5% each from 2/3 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	5% resident population			SS	90 days	90 days
Ohio	10% VG, 1.5% each from 1/2 co	5% 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 (see key below)		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	Statute
Virginia							
Washington		8% VG		Y	SS		(i)
West Virginia			(b)				
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 votes 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—4 months; Indirect—10 months.
- (i) Direct—4 months; Indirect—10 months prior to legislative session.

ELECTIONS

ELECTIONS

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:		Penalty for falsifying petition (denotes fine, jail terms)	Petition certified (d) by who
			Incomplete (b)	Not accepted (c)		
Alabama	Director of Elections	60 days	10 days			
Alaska	SS, county recorder	10 days (g)	10 days		Class B misdemeanor	LG
Arizona		15 days	10 days	15 days	Class I misdemeanor	SS
California	Clerk or registrar of voters	25-101 days			\$40-\$100 00, 1-9 yrs	SS
Colorado	SS	31 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				1BE
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 (g)		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						
Ohio	SS, County board of elections	35 days	20 days	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						
Vermont	County clerks				\$500 00, 2 yrs	LG

ELECTIONS

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:		Penalty for falsifying petition (denotes fine, jail terms)	Petition certified (d) by who
			Incomplete (b)	Not accepted (c)		
Virginia						
Washington	SS	(f)		10 days (h)		SS
West Virginia						
Wisconsin						
Wyoming	SS	60 days	60 days	60 days	\$1,000 00, 1 yr	SS

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 approved in 10 days.

ELECTIONS

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 in current election results (c)	Can an approved initiative be			Can a defeated initiative be refiled
	Title by	Summary by		Amendment	Statute		Amended	Vetued	Repeated	
Alabama	LG		(d)			90 days	Y	N	after 2 yrs	Y
Alaska			GE	IM	IM	5 days	Y	N	Y	Y
Arizona	AG	AG		30 days	30 days	60 days		N	N	
Arkansas	AG	AG	GE	IM (b)	IM (b)	5 days	Y		Y	Y
California				30 days	30 days			N		Y
Colorado	SS,AG,LS	SS,AG,LS	next biennial election							
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	10 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/ 7 Yrs	N	w/ 7 yrs	Y
Ohio	SS	Ohio Ballot Board				15 days		N		Y
Oklahoma	AG	AG		IM	IM			N	Y	after 3 yrs
Oregon	AG	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	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



SJR6

Legislative Council

today's schedule

1. How many proposals for next session have received 2/3?

2. More difficult to reach ballot, easier to pass

How many State dollars allowed to end by unit?

SJR6

Chap. Thomas

35% increase for workers

10% appls

25% public

also, judicial members

a lower judicial bill to 5%

STRG

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	32,481	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	32,578	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	19,503	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	<u>Administration and Review of State Land Disposals</u>	Article VIII, Section 10	SJR 10	46,652	64,744	42%
11/02/76	<u>Direct Financial Aid to Students</u>	Article VII, Section 1	HJR 73	54,636	64,211	46%
11/07/78	<u>Powers of Legislative Interim Committees</u>	Article II, Section 11	SJR 16	48,078	68,403	40%
11/04/80	<u>Legislative Annulment of Regulations</u>	Article II, (New Section)	HJR 82	58,808	82,010	42%
11/04/80	<u>Disqualifications of Legislators</u>	Article II, Section 25	SJR 2	47,054	99,705	32%
11/04/80	<u>Interim and Special Legislative Committees</u>	Article II, Section 11	HJR 80	41,868	102,270	29%
11/04/80	<u>Appointment and Confirmation of Members</u>	Article III, Section 26	HJR 20	56,316	90,508	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 Judicial	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	<u>Legislative Annulment of Administrative Regulations</u>	Article II, (New Section)	HJR 5	91,171	98,855	48%
11/06/84	Limiting Length of Regular Legislative Sessions	Article II, Section 8	HJR 2 (Rules)	150,999	94,299	62%
11/04/86	<u>Legislative Annulment of Administrative Regulations</u>	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).

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

<u>Decade</u>	<u>Initiatives</u>	<u>Success</u>
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 (see key below)		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	Statute
Alabama	...	...	...	...	...	...	...
Alaska	...	...	...	...	...	...	...
Arizona	15% VG	10% TV from 2/3 ED	1 year	Y	LG	...	...
Arkansas	10% EWG, 5% each from 15 co.	8% VEG, 5% each from 15 co.	2 years	Y	SS	4 months	4 months
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	9% VEP, 8% from 1/2 CD	...	...	...	SS	91 days	...
Georgia	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...
Idaho	...	10% VG	...	...	SS	...	4 months
Illinois	8% VG	...	2 years	Y	SS	6 months	...
Indiana	...	...	...	...	...	...	...
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. (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 2/3 co.	7% EV, 5% each from 2/3 co.	...	Y	SS	4 months	4 months
Nevada	10% TV, 10% each from 1/4 co.	10% TV, 10% each from 1/4 co.	(g)	...	SS	10 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 (see key below)		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	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—6 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:		Penalty for falsifying petition (denotes fine, jail term)	Petition certified by who
			Incomplete (b)	Not accepted (c)		
Alabama	...	...	...	...	...	...
Alaska	Director of Elections	60 days	30 days	...	...	...
Arizona	SS, county recorder	10 days (g)	10 days	...	Class B misdemeanor	LG
Arkansas	...	13 days	...	...	Class 1 misdemeanor	SS
California	Clerk or registrar of voters	25-103 days	30 days	15 days	\$50-\$100.00, 1-3 yrs	SS
Colorado	SS	...	...	...	...	...
Connecticut	...	21 days	...	...	...	SS
Delaware	...	...	...	...	...	...
Florida	Supervisor of elections	...	...	...	...	SS
Georgia	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...
Idaho	County clerk	...	...	...	...	...
Illinois	SBE and Election Auth.	14 days	...	10 days	\$5,000.00, 2 yrs	SS
Indiana	...	...	...	...	...	SBE
Iowa	...	...	...	...	...	...
Kansas	...	...	...	...	...	...
Kentucky	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...
Maine	...	25 days	...	...	...	...
Maryland	...	...	...	...	...	SS
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	...	...	...	...
Nebraska	County clerk or election commr.	40 days	...	10 days	\$300.00, 6 months	SS
Nevada	County clerk or registrar	20-50 days	...	...	Class IV felony	SS
New Hampshire	...	...	...	...	\$10,000.00, 1-10 yrs	SS
New Jersey	...	...	...	...	...	...
New Mexico	...	...	...	...	...	...
New York	...	...	...	...	...	...
North Carolina	...	...	...	...	...	...
North Dakota	SS	35 days	20 days	...	...	...
Ohio	County board of elections	...	10 days	...	\$1,000.00, 6 months	SS
Oklahoma	...	...	...	...	...	SS
Oregon	SS, county elections official	15 days	...	...	...	SS
Pennsylvania	...	...	...	...	...	...
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—Continued

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

Sources: 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 REF:

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

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 33% 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.

Source: State election administrative offices.

Key:

- ... — Not applicable
- EV — Eligible voters
- LG — Lieutenant Governor
- SS — Secretary of State
- AG — Attorney General
- P — Proponent
- ST — State
- SP — Sponsor
- Y — Yes
- N — No

(a) Three forms of referendum and Constitutional Amendment or enacts a citizens petition.

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

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 thresholds, 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 <u>1970-1988</u>
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

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

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

* Includes legislative and citizen-sponsored ballot measures.

The Anchorage Times

"Holliving in Alaska, putting Alaska first"

Publisher: BILL J. ALLEN

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times (formerly in its segment of the *Anchorage Daily News*) does not represent the views of the *Daily News*. It is written and published (under an agreement) with former owners of *The Times*, in the interests of preserving a diversity of viewpoints in the community.

An early opportunity ^{1.18.93}

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't think of anything else. If you just pass a rule, it can be ignored."

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

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
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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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
Date: 1/15/93
Divisio Division of Elections

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

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SJR

8



Alaska State Legislature

Session

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Chair

Legislative Budget and Audit
Community and Regional Affairs

Vice-Chair

Transportation

Randy Phillips

State Senator
District L

Memorandum

TO: Senator Loren Leman, Chairman
Senate State Affairs Committee

FROM: Senator Randy Phillips *R.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:

Sectional Analysis

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

Chair
*Legislative Budget and Audit
Community and Regional Affairs*

Vice-Chair
Transportation

January 26, 1993

Randy Phillips

State Senator
District L

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

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

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

**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	<u>2,802.1</u>	
EXCEPTIONS TO THE APPROPRIATION LIMIT		
G.O. Debt Retirement		<u>-59.8</u>
TOTAL APPROPRIATIONS SUBJECT TO LIMIT		2,742.3
Multiply by 5% plus the change in population and inflation		<u>111.15%</u>
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	<u>2.0</u>	
Total Appropriations		2,065.6

EXCEPTIONS TO THE APPROPRIATION LIMIT

G.O. Debt Retirement	<u>-59.8</u>
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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	<u>5.0</u>	
Total Appropriations		1,088.7

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	<u>586,900</u>	
	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	<u>127.3</u>	
	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
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

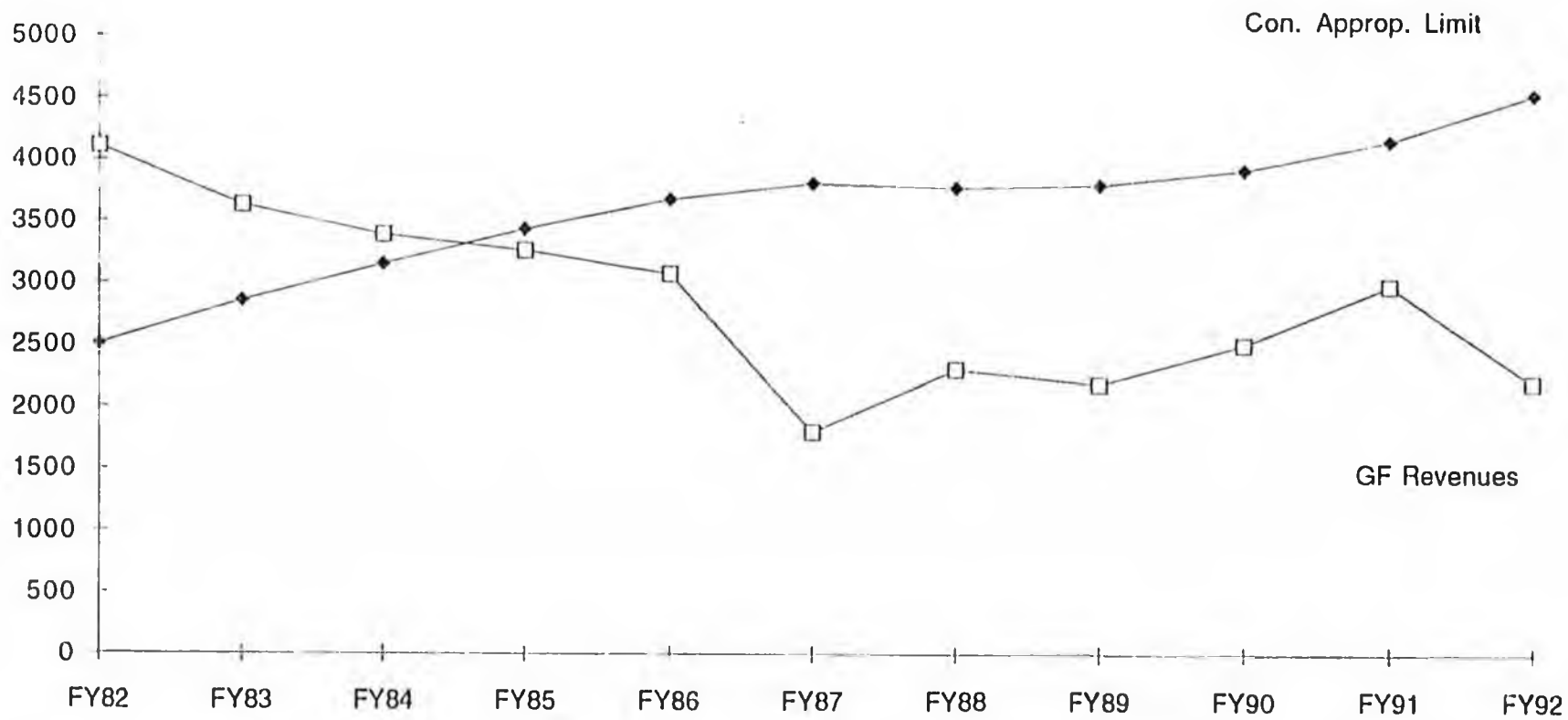
Notes: Population figures come from U.S. Census Bureau, Statistical Abstract of the United States 1992, U.S. Department of Commerce, Economics and Statistics Administration

Inflation figures are calculated using the Anchorage CPI-U prepared by the U.S. Department of Labor, Bureau of Labor Statistics.

GF Revenues vs GF Budget, FY78-FY93 in millions of dollars



GF Revenues vs Constitutional Approp. Limit



FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 8

Revision Date: _____
Title: Amendment to the Constitution RE: capitol projects and loan appro-
riations, and to the expenditure limit
Sponsor: Senator 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 and additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director *Charlot E. Thickstun* Phone: 465-4611
Division: Division of Elections Date: 1/15/93
Approved by Commissioner: Lt. Governor John B. Coghill *J. B. Coghill*
Agency: Office of the Lt. Governor Date: 1/15/93

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