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

CHAIRMAN R. RIVERS: Mr. Coghill.

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

CHAIRMAN R. RIVERS: Mr. Knight.

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

CHAIRMAN R. RIVERS: Mr. Hinckel.

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

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

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

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

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

CHAIRMAN R. RIVERS: Mr. Metcalf.

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

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

CHAIRMAN R. RIVERS: Mrs. Hermann.

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

CHAIRMAN R. RIVERS: Miss Awes.

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

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

METCALF: Page 29.

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

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

CHAIRMAN R. RIVERS: Mr. Collins.

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

UNIDENTIFIED DELEGATE: question.

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

EGAN: He may have the floor.

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

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

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

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

CHAIRMAN R. RIVERS: Mr. McCutcheon.

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

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

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

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

CHAIRMAN R. RIVERS: Mr. Gray.

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

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

JOHNSON: Yes, I do.

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

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

JOHNSON: I move the adoption of the amendment.

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

MCNEALY: I second the motion.

GRAY: I would like to ask the mover how he arrived at the figure "fifteen". I had in mind "twenty-five" but I don't know what the difference is between eight, ten, or fifteen per cent.

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

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

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

PRESIDENT EGAN: Mr. Barr.

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

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

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

KILCHER: Yes. I advise that this amendment be defeated. It is exorbitantly high and I intend to suggest an amendment at a much lower figure than this. The average is slightly less than eight per cent, as for as my figures show. Considering the distance and geography of Alaska, we should rather have a figure lower than eight or leave it as it is. That defeats the purpose of the measure.

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

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

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

PRESIDENT EGAN: Mr. Taylor.

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

PRESIDENT EGAN: Mr. Marston.

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

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

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

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

PRESIDENT EGAN: Mr. Hurley.

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

PRESIDENT EGAN: Mr. Barr.

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

PRESIDENT EGAN: Mr. Gray.

GRAY: I have to rise a second time because of that 200-vote deal. The gentleman on that pointed directly at me. I wish to cite right now the principle of the thing. On the extraneous, unimportant matters, we don't care what the percentage is, two per cent, but on these important matters we must raise it to a higher value.

PRESIDENT EGAN: Mr. Sundborg.

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

PRESIDENT EGAN: Mr. Buckalew.

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

PRESIDENT EGAN: Mr. Londborg.

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

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

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

COOPER: Of the general election?

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

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

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

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

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

UNIDENTIFIED DELAGATE: Question.

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

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

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

SWEENEY: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

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

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

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

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

.....

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

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

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

JOHNSON: Yes, please.

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

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

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

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

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

JOHNSON: I do.

ROBERTSON: I second the motion.

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

PRESIDENT EGAN: Mr. Marston.

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

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

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

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

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

DAVIS: Yes.

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

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

DAVIS: Either "circulated" or "signatures should be secured from". Either one would be all right from my standpoint. But as it reads it says, "it shall be from" and I think it is meaningless.

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

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

PRESIDENT EGAN: Mr. Cooper.

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

PRESIDENT EGAN: Mr. Londborg.

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

.....

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

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

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

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

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

ROBERTSON: I second it.

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

SMITH: Mr. President, my recollection of the Committee discussion on this question was that under Section 7 the legislature would have the authority to require that signatures be obtained from as many legislative districts as they might deem necessary. The Committee felt, that is my version of the Committee feeling was, that due to the changes which will inevitably come, that the legislature could safely make those requirements. They could change those requirements to meet changing conditions and, therefore, I am opposing the amendment.

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

PRESIDENT EGAN: Mr. Hinckel.

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

PRESIDENT EGAN: Mr. Cooper.

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mrs. Hermann.

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

SUNDBORG: I have to take a view opposite to that of Mrs. Hermann's, something which I do not often do, for the reason that this provision would cover not only initiative petitions but referendum petitions, and I do not believe it proper to leave in the hands of the legislature the writing of basic provisions on how petitions which would override and defeat actions which the legislature has taken would have to be handled. Now under your view it is open here if we don't mention it, and it is open to the legislature to put up any kind of a provision it wants, it could require that there would have to be signatures from every voting precinct in the state which would defeat it because it would be impossible to get such signatures, and I don't believe that if we are going to have the referendum at all which is the process for the people to say,""We don't want this law which the legislature has just passed. We don't want to leave it to the legislature to set up the ground rules of how those things are going to be handled. I think that the amendment as now submitted does not require very much. All it says is that the petition shall contain signatures from at least two-thirds of the election districts of the state. The Apportionment Committee is bringing out a report which is going to set up 24 election districts in the state. This would require that anyone who wants to get a matter on the ballot would only have to have signatures from 16 of those election districts. Say that we need 4,000 as it is in Alaska today, he could have 3,985 signatures from the City of Anchorage and he could get one each from the other 16 election districts and he's on the ballot. Now I don't think that is going to restrict very many initiative or referendum petitions.

PRESIDENT EGAN: Mr. Buckalew.

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

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

PRESIDENT EGAN: Mr. Smith.

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

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think, in answering Mr. Smith's objections, he possibly loses sight of the fact that this Convention, if we adopt this proposal would be bound by it, as it says "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein...by the people." They have got to pass the legislation. It has got to be introduced. It has got to be implemented by the proper legislative measure. Let us trust the legislature. Let us leave this just as much as basic law as we possibly can. Otherwise, we are coming out of here with a constitution that the voters will not ratify. Maybe some of these amendments are put in for the purpose of defeating the constitution.

PRESIDENT EGAN: Mr. Davis.

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

PRESIDENT EGAN: Mr. Johnson.

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

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I am a strong advocate of leaving matters to the legislature, but I want to point out that when you start writing legislation into the constitution then you have got to write more legislation in order to supplement the legislation that you already have written in, and I too want to call attention to Section 3, the last line where it states, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people. If this is left blank, the percentage of the voters who must sign the petition, and if it is left in the blank about what districts they shall be signed in, then I can foresee and very clearly there will be untold litigation, because if the legislature attempted to pass a bill and required fifteen per cent of the signatures, the people, or a small segment, would attack it on the grounds that it was hampering or restricting or impairing the voters. If the legislature attempted to say that the petitions had to be secured in certain districts they could always refer back to this clause here of hampering, restricting, or impairing. I think as long as we started writing legislation into this, unless the matter is clearly spelled out in the bill and left up to the legislature, then we must spell out these things in order to protect against future court action.

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

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

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

PRESIDENT EGAN: Mr. Kilcher.

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

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

BOSWELL: I move the previous question.

HERMANN: I second the motion.

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

TAYLOR: Roll call.

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

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

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

(The Chief Clerk called the roll with the following result:
Yeas: 38 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

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

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

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

.....

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

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

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

BARR: I second the motion.

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

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

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

TAYLOR: Amending the amendment though.

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

MARSTON: I second the motion.

SWEENEY: I object.

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mrs. Sweeney.

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Harris.

HARRIS: I am both in agreement and in disagreement with Mr. Taylor's proposal. Ten per cent at the present time with our present voting population perhaps would be a little low. Also, I have an amendment on the desk, and if Mr. Taylor would adopt the latter part of my amendment, I think maybe we would

straighten this situation out. I would go ten per cent provided however that no petition shall have less than 5,000 signatures.

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

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

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

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

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

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

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

CHIEF CLERK: Yes, it was.

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

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

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

.....

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

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

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

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

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

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

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

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

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

PRESIDENT EGAN: Mr. Sundborg.

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

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to onehalf" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16

per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

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

V. RIVERS: I ask that the roll be called.

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

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

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

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

Absent: 3 - Cross, McCutcheon, Nerland.)

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

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

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

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

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

BUCKALEW: I move its adoption.

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

AWES: I second it.

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

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

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

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ALASKA CONSTITUTIONAL CONVENTION
December 18, 1955
FORTY-FIRST DAY

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

PRESIDENT EGAN: Mr. McNealy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

believe that we should retain that figure.

PRESIDENT EGAN: Mr. McNealy.

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

PRESIDENT EGAN: Mr. Marston.

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

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

PRESIDENT EGAN: Mr. White.

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

PRESIDENT EGAN: Mr. Boswell.

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

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

PRESIDENT EGAN: Mr. Cooper.

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

UNIDENTIFIED DELEGATE: Question.

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

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

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

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

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

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

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

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

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

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ALASKA CONSTITUTIONAL CONVENTION
January 2, 1956
FORTY-THIRD DAY

.....

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

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

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

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

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

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

LONDBORG: I move the adoption of the amendment.

JOHNSON: I second the motion.

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

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

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

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

proposed law is gaining interest over the whole state, not just a local affair that the ten per cent would indicate if they were taken from one city or one locality and just go out and get one signature to comply with our initiative.

PRESIDENT EGAN: Mr. Ralph Rivers.

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

PRESIDENT EGAN: Mr. Hurley.

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to close this short debate. In answer to the last objection, I don't believe Section 5 is a safeguard at all. It just merely says that they may not be used for means of earmarking revenues, etc., but there still may be a law that one locality might particularly want, maybe it isn't pertaining to them, but it may pertain to the whole state, but the state may not be particularly interested in it, and the initiative may spring out of a populous area and they could get the ten per cent in just an overnight campaign and get the one signature out around, and then in answer to the former objection where we should not make it hard or things of that nature, let us remember that the initiative is not enacting laws by an apportionment representation. We are enacting laws by popular vote, and we have set up a machinery in the legislature to make our laws and they are sitting representing the various areas of the country, but when it comes to a popular vote, then you will find that it is where the people are that is going to count, and I think as a safeguard, and again I say it is not a high safeguard but very low, if you get three per cent of the qualified voters in these two-thirds districts you will have a good indication of whether it is of statewide interest.

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

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

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

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

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

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

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

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

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

Constitutional Convention
Committee Proposal/3
December 9, 1955

REPORT OF THE COMMITTEE ON DIRECT LEGISLATION, AMENDMENT AND REVISION

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

Dear Mr. President:

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

Respectfully submitted,

E. B. Collins, Chairman

Jack Hinckel, M. R. Marston, Irwin L. Metcalf, Warren A. Taylor, W. 0. Smith, Leonard King,

COMMITTEE PROPOSAL NO. 3
Introduced by Committee on Direct Legislation

INITIATIVE, REFERENDUM AND RECALL
AMENDMENT AND REVISION

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

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

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

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

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

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

Restrictions
Section 5. Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation. Emergency acts are not subject to referendum.

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

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

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

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

Commentary on the Article of Initiative, Referendum and Recall

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

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

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

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

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

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

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

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

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

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

Initiative and Referendum in the 21st Century

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

NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

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NCSL

The National Conference of State Legislatures is the bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories.

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- To promote policy innovation and communication among state legislatures.
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PREFACE AND ACKNOWLEDGMENTS

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

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

Honorable DiAnna Schimek, State Senator, Nebraska, Task Force Chair
Chris Badgley, Vice President of State Government Affairs, PhRMA, Washington, D.C.
Jerry Barnett, Ph.D., Principal, Thomas-Huntington Ltd., Missouri
Honorable Jim Costa, State Senator, California
Sharon Eubanks, Senior Attorney for Administration, Office of Legislative Legal Services, Colorado
Honorable Marilyn Jarrett, State Senator, Arizona
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Frank H. Plescia, Senior Director of U.S. State Government Affairs, Monsanto Company, Missouri
Honorable Lane Shetterly, House Speaker Pro Tem, Oregon
Michael Stewart, Senior Research Analyst, Legislative Counsel Bureau, Nevada

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

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

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

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

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

EXECUTIVE SUMMARY

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

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

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

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

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

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

TASK FORCE RECOMMENDATIONS

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

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

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

General Recommendations Regarding the Initiative Process

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

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

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

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

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

Involving the Legislature in the Initiative Process

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

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

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

The Subject Matter of Initiatives

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

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

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

The Drafting and Certification Phase

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

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

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

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

The Signature Gathering Phase

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

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

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

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

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

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

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

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

Voter Education

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

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

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

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

Financial Disclosure

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

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

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

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

Voting on Initiatives

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

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

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

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

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

INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

Observations and Conclusions About Representative and Direct Democracy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. General Recommendations Regarding the Initiative Process

Recommendations

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

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

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

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

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

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

Overview

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

The Advisory Initiative

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

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

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

The General Policy Initiative

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

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

The Indirect Initiative

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Case Studies: The Indirect Initiative

Switzerland

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

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

Massachusetts

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

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

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

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

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

Initiated Statutes vs. Constitutional Amendments

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

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

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

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

Other Ideas for Reform

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

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

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

Table 2. Legislative Amendment and Repeal of Initiated Measures

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

Source: National Conference of State Legislatures, January 2002.

Recent Legislative Action

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

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

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

5. The Signature Gathering Phase

Overview

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

Statement of Organization

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

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

Fraud in the Signature Gathering Process

Paid vs. Volunteer Petitioners

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

Recommendations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Registered Voter and Residency Requirements

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

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

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

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

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

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

Arizona	Mississippi
California	Nebraska
Colorado	Ohio
Idaho	Washington
Maine	Wyoming

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

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

Table 10. Paid/Volunteer Status Must be Disclosed

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

Source: National Conference of State Legislatures, February 2002.

Circulation Periods

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

Table 11. Circulation Periods

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

Source: National Conference of State Legislatures, May 2002.

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

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

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

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

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

Signature Requirements

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

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

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

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

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

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

Geographic Distribution Requirements

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

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

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

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

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

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

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

Table 12. Signature Requirements—Statutory Initiatives

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

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

Table 13. Signature Requirements—Initiated Constitutional Amendments			
	Constitutional Initiatives		
	Signatures	2002 Actual Requirement	Geographic Distribution
Alaska	N/A		
Arizona	15% of votes cast for governor in last election	152,643	None
Arkansas	10% of votes cast for governor in last election	70,601	Signatures from 5% of registered voters from at least 15 of 75 counties
California	8% of votes cast for governor in last election	670,816	None
Colorado	5% of votes cast for sec. state in last election	80,571	None
Florida	8% of total votes cast statewide in last presidential election	488,722	8% in at least 12 of the state's 23 congressional districts
Idaho	N/A		
Illinois	8% of total votes cast for governor in previous election	268,693	None
Maine	N/A		
Massachusetts	3% of votes cast for governor in last election	57,100	No more than 25% of signatures may be from one county
Michigan	10% of votes cast for governor in last election	302,710	None
Mississippi	12% of votes cast for governor in last election	91,673	No more than 1/5 total signatures from one congressional district
Missouri	8% of votes cast for governor in last election	187,746	8% of votes cast for governor in last election from 6 of the 9 congressional districts
Montana	10% of qualified electors in state at large	41,020	At least 10% of voters in at least 40 of the 100 legislative districts
Nebraska	10% of registered voters at the filing deadline	108,527	5% of registered voters in 38 of the 93 counties
Nevada	10% of total votes cast in last general election	61,336	10% of total votes cast in the last general election from at least 13 of the 17 counties
North Dakota	4% of resident population of the state	25,688	None
Ohio	10% of votes cast for governor in last election	335,421	None
Oklahoma	15% of votes cast in last state election for the office receiving the highest number of votes	185,145	None
Oregon	8% of votes cast for governor in last election	89,048	None
South Dakota	10% of votes cast for governor in last election	26,019	None
Utah	N/A		
Washington	N/A		
Wyoming	N/A		

Source: National Conference of State Legislatures, January 2002

Verifying Signatures

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

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

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

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

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

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

Table 14. Method of Signature Verification

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

Table 14. Method of Signature Verification (continued)

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

Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

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

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

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

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

Recent Legislative Action

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

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

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

- Three states considered bills designed to combat signature fraud.

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

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

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

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

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

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

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

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

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

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

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

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

Election District	Number of Signatures Gathered in District	Percent of 1996 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	34	0.5	
2	50	0.7	
3	798	10.1	
4	823	10.9	
5	100	1.7	
6	520	9.97	
7	314	4.3	199
8	385	5.9	67
9	254	4.4	152
10	957	13.1	
11	1070	17.8	
12	1046	16.8	
13	1136	15.9	
14	685	13.3	
15	1147	22.3	
16	1369	37	
17	1327	21.9	
18	1132	13.8	
19	1238	20.2	
20	1068	17.6	
21	1130	19.7	
22	972	13.2	
23	608	16.3	
24	932	14.5	
25	974	14.6	
26	895	13.5	
27	940	12	
28	1070	13.9	
29	280	3.7	252
30	174	3.1	
31	180	3.2	
32	73	1.5	
33	166	2.3	
34	108	1.8	
35	236	4.1	167
36	214	4.1	150
37	186	3.9	144
38	162	3.3	
39	161	3.2	
40	173	5.6	42

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

01PRVT: Alternative Voting Electoral System (Failed 8/27/02, 39,666 to 69,693)

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

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

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

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

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

Election District	Number of Signatures Gathered in District	Percent of 2000 Votes	Minimum Number of Additional Signatures Needed to Reach 7 Percent (as HB31 requires)
1	286	4.4	
2	124	1.7	
3	395	5.1	149
4	318	4.3	
5	136	2.2	
6	188	3.2	
7	580	6.96	4
8	509	6.8	18
9	561	8.6	
10	1122	13.2	
11	1160	17.8	
12	1074	15.1	
13	1113	14.9	
14	809	16.1	
15	1089	20.7	
16	1350	32.9	
17	1309	18.3	
18	1250	13.2	
19	1295	17.9	
20	1103	17.3	
21	1363	22.6	
22	1440	17.9	
23	798	18.9	
24	1231	16.3	
25	1188	15.3	
26	902	11.4	
27	929	9.3	
28	874	8.4	
29	377	4.5	
30	269	4.9	
31	310	5.8	65
32	193	3.7	
33	361	4.5	
34	211	3.1	
35	790	13.1	
36	354	6.7	17
37	443	9.1	
38	316	6.5	22
39	593	11.96	
40	269	8.7	

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

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

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

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

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

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

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

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

HB31/HJR5 Signature Requirements as a percentage of registered voters

Election District	Number of Registered Voters, 11/05/02	Number of Signatures needed to comply with HB31	Signatures required by HB31 as a percentage of registered voters
1	11,007	455	4.1
2	12,124	505	4.2
3	12,483	544	4.4
4	12,044	523	4.3
5	11,703	432	3.7
6	10,582	413	3.9
7	13,262	584	4.4
8	12,894	527	4.1
9	12,077	456	3.8
10	13,199	594	4.5
11	13,162	455	3.5
12	13,551	498	3.7
13	12,142	522	4.3
14	12,122	353	2.9
15	12,023	369	3.1
16	12,058	288	2.4
17	12,860	500	3.9
18	12,016	664	5.5
19	10,986	506	4.6
20	9,310	446	4.8
21	11,928	422	3.5
22	10,621	565	5.3
23	11,607	295	2.5
24	11,412	528	4.6
25	11,043	545	4.9
26	11,992	555	4.6
27	10,928	696	6.4
28	11,737	731	6.2
29	10,591	584	5.5
30	11,343	383	3.4
31	12,590	375	3
32	13,292	364	2.7
33	12,102	564	4.7
34	12,106	470	3.9
35	12,681	422	3.3
36	10,826	371	3.4
37	7,843	343	4.4
38	7,838	338	4.3
39	7,994	347	4.3
40	8,776	218	2.5

Initiative and Referendum in the 21st Century

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

NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

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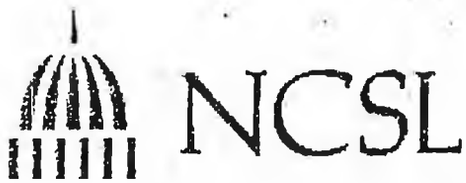

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- To ensure state legislatures a strong, cohesive voice in the federal system.

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PREFACE AND ACKNOWLEDGMENTS

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

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

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

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

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

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

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

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

TASK FORCE RECOMMENDATIONS

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

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

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

General Recommendations Regarding the Initiative Process

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

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

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

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

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

Involving the Legislature in the Initiative Process

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

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

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

The Subject Matter of Initiatives

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

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

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

The Drafting and Certification Phase

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

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

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

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

The Signature Gathering Phase

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

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

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

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

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

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

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

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

Voter Education

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

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

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

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

Financial Disclosure

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

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

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

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

Voting on Initiatives

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

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

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

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

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