

INITIATIVE AND REFERENDUM:
THE ROLE OF DIRECT DEMOCRACY
IN STATE GOVERNMENT

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Initiative and referendum are two forms of direct legislation whose origins in the United States can be found in the populist movement of the late nineteenth and early twentieth centuries.

Both concepts stem from a common philosophy--that of involving the people directly in the public decision-making process. The initiative allows the people to propose a law or, in most states, a constitutional amendment.

There are two types of initiative. The direct initiative completely bypasses the legislature and allows a qualifying measure proposed by the people to be placed directly on the ballot for approval or rejection. Thirteen states allow the direct initiative. The indirect initiative requires the proposed law or constitutional amendment to be submitted first to the legislative body. The legislature, in most cases, is required to act on all indirect initiative proposals within a given period of time.

Under the indirect initiative, if the legislature rejects or fails to act upon the proposal, or proposes a substitute bill, the initiated measure (and the legislative substitute) are placed on the ballot for voter consideration. In some states additional signatures must be obtained in order to place the initiated measure on the ballot at this stage. Two states provide for the indirect initiative while six states allow both the direct and the indirect initiative. In one state the petitioners may choose between the two procedures; in the remaining five the procedure used depends on whether the initiative measure is a statute or a constitutional amendment.

The word "referendum" is often used incorrectly to describe an initiated measure that is placed on the ballot for voter consideration. Referendum actually provides a mechanism for the electorate to approve or reject legislation that has already been approved by the legislature. There are three types of referenda. Nineteen state constitutions allow the optional referendum. Under this system the state legislature may choose to submit measures it has enacted to the voters in a referendum. Some state constitutions require referenda upon particular categories of legislation, most commonly proposed amendments to the state constitution. This type of referendum is described as an obligatory referendum on subject matter. The third type of referendum and the type that this report will focus upon is the referendum upon petition by the people, sometimes referred to as the "popular referendum".

Twenty-four states allow the popular referendum. All require that the petition with the required number of signatures be filed within a prescribed period of time, in most cases ninety days, after the adjournment of the legislative session which enacted the law that is the subject of the petition.

Recent political events across the country have generated a renewed interest in the concepts of initiative and referendum. This report is intended to assist legislators in identifying and analyzing the issues associated with direct legislation. It will first describe various features of initiative and referendum provisions in the twenty-four states that allow one or both types of direct legislation. A tabulation of the frequency with which the electorate invokes its legislative powers in these states will follow. Finally the report discusses common arguments for and against initiative and referendum. It should be noted that this report addresses initiative and referendum at the state level only and does not attempt to describe similar powers available to citizens of local units of government.

INITIATIVE--FEATURES

All states that allow the initiative do so in the state constitution. Most constitutional provisions are self-executing, that is they are effective without supplementary enabling legislation. Constitutional provisions in the twenty-one states vary considerably in length and detail. Idaho and Utah are the only two initiative states whose constitutions contain a bare minimum--a statement reserving to the people the power to propose and enact laws. Generally, the state constitution also sets the signature requirement for petitions, sets time limits for filing petitions, specifies those elections at which initiated measures may appear on the ballot and the vote totals required to enact an initiated measure, clarifies gubernatorial veto powers and the legislature's power to amend or repeal an initiated law, and in more than fifty percent of initiative states, specifies a procedure for dealing with the adoption of conflicting measures. Only two state constitutions stray substantially beyond these requirements by addressing publicity requirements for initiated measures (Washington) and verification of signatures on petitions (Ohio). In the remaining states these areas are addressed in the statutes. All state statutes also include penalty provisions. Table I describes in detail key provisions of state constitutions and statutes relating to the power of initiative.

in this table are followed by an (s). All other provisions are constitutional

TABLE I

STATE CONSTITUTIONAL AND STATUTORY PROVISIONS FOR INITIATIVE

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter ¹	Number of Signatures Required ²	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
Alaska	D	Yes	10% from 2/3 of election districts in the state.	W/i one year of certification of petition application by Lt.Gov.	First statewide election held more than 120 days after legislative adjournment and following filing of petition.	Majority of votes cast on measure.	No veto power - Cannot repeal for 2 years - Can amend any time.		Petition is void if legislature enacts substantially the same measure.
Arizona	D	No	10% - Laws 15% - Const. Amendment.	At least 4 months prior to election at which initiative measures may be voted upon.	Regular general election.	Majority of votes cast on measure.	No veto power - Cannot amend or repeal.	One with most affirmative votes prevails.	
Arkansas	D	No	8% - Laws 10% - Const. Amendment.	Not less than 4 months before election at which measure will be voted on.	Regular general election.	Majority of votes cast on measure.	No veto. May be amended or repealed only by a 2/3 vote of general assembly.	One with highest number of affirmative votes becomes law.	
California	D	Yes	5% - Laws 8% - Const. Amendment.	W/i 150 days of date the summary is received by Attorney General and at least 131 days before election(s).	Next general election held at least 131 days after petition qualifies or at any special election held before general election or at the call of the governor.	Majority(s).	Can amend or repeal but shall be subject to referendum.		
Colorado	D	No	8% of number voting for secretary of state in last general election.	At least 4 mo. prior to general election when measure is to be voted upon.	Biennial regular general election.	Majority of votes cast on measure.	No veto power.	One with most affirmative votes prevails.(s)	

1. See Table II - list of restrictions on subject matter.

2. Unless otherwise indicated percentage in this column is a percent of the total number of votes cast for governor in last preceding general election.

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter	Number of Signatures Required	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
Idaho	D	No	10% (s)	At least 4 months before election(s)	Regular general election. (s)	Majority vote and equal to or greater than a majority of votes cast for governor at the same election.	May be repealed (court case).	Measure receiving greatest number of affirmative votes is paramount in areas where conflict occurs. (s)	
Illinois	D	Yes	8%	At least 6 months before election.	General election.	3/5 of vote on amendment or majority of votes cast in election.			Applies only to constitutional legis. article.
Florida	D	Yes	8% of votes cast on last presidential election in 1/2 Congressional districts.						Applies only to constitutional amendments.
Maine	I	Yes	10%	File with legislature not later than 50th day after convening of regular session. Unless measure is enacted without change it shall be submitted at next general election along with any alternatives. Election must be not less than 60 days after adjournment. If no election within 6 months and petition requests, governor may call special election not less than 4 or more than 6 months later.			If initiated measure is passed by legislature, vetoed and sustained, it shall be submitted to a referendum.	When a legislative alternative is proposed, must be able to choose between measures or reject both.	
Massachusetts	I	Yes	3%	Filed with legislature no later than 1st Wed. in Dec. prior to convening of session. An initiative measure for a constitutional amendment must be considered and is approved upon a vote of 1/4 of the members in joint session and by two General Courts. May be amended by 3/4 vote. Legislative substitute requires majority. A majority vote at the next general election and a total vote equal to at least 30% of votes cast at election required for approval of initiative or legislative substitute. (s) The General Court shall vote on an initiative law by the 1st Wed. in May. May propose substitute. If General Court fails to enact in form submitted the measure is placed on ballot if an additional 1/2 of 1% of voters for governor in last election sign a supplemental petition. Vote required for passage by people is same. (s)				One receiving greatest number of affirmative votes prevails. General Court may group conflicting measures and one in a group that receives most votes is adopted.	Cannot be substantially same as a measure submitted to the people w/i last 3 yrs. Provision for amendment by 1st 10 signers if Gen. Ct. fails to enact. Cannot change proposal substantially.

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter	Number of Signatures Required	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
Michigan	I D	No	8% - Laws 10% - Constitutional Amendment	Petition for statute shall be submitted to legislature not less than 10 days before convening. Must be enacted or rejected without change within 40 session days. If rejected, may propose a substitute and both appear on ballot at next general election. Majority vote required. Petitions for constitutional amendment submitted to Secretary of State at least 120 days prior to general election.			Initiated law enacted by legislature may be amended by subsequent sessions. Initiated law enacted by people may be amended by 3/4 vote.	Amendment receiving greatest number of affirmative votes prevails.	Initiated law may be subject of referendum.
Missouri	D	Yes	8% in each of 2/3 of Congressional districts - Constitutional Amendment 5% of same - Laws.	At least 4 months before election.	Regular general election.	Majority of votes on measure.		One with greatest number of votes prevails on conflicting provisions.	
Montana	D	Yes	8% in 2/5 of the counties.	At least 4 months before election.	Biennial regular election or at a special election called by legislature.	Majority of votes on measure.	No veto.		
Nebraska	D	Yes	7% - Laws 10% - Constitutional Amendment In both cases must be distributed to include 5% of electors in 2/5 of the counties.		First statewide election held at least 4 months after petition is filed.	Majority of votes on measure and not less than 35% of votes cast at election.	No veto.	One with greatest number of votes prevails on conflicting provisions.	Cannot propose substantially the same measure more than once in 3 years.
Nevada	I D	Yes	10% - election from 75% of the counties.	Statute: File with Secretary of State not less than 30 days prior to convening of session. Legislature must reject or enact without amendment within 40 days. May propose substitute. If reject or no action submitted at next general election. Constitutional Amendment: File with Secretary of State not less than 90 days before general election. Must be approved in 2 consecutive general elections.			If approved by the people, legislature cannot amend or repeal for 3 yrs.	One with greatest number of votes is approved.	

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter	Number of Signatures Required	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
North Dakota (existing law)	D	No	10,000 - Statute 20,000 - Constitutional Amendment.	Not less than 90 days before election. 120 days for Constitutional Amendment.	Any statewide election designated in petition.	Majority	No veto. 2/3 vote required to repeal or amend.	One with greatest number of affirmative votes becomes law.	
(proposed 1/1/79)	D	No	2% of resident population - Laws 4% of same - Constitutional Amendment.	Same	Same	Same	2/3 vote required to repeal or amend within 7 years of effective date.	Same	
Ohio	D I	Yes	3% - Laws. 10% - Constitutional Amendment Also 1/2 of % must be from each of 1/2 of the counties.	File petition for statutory measure not less than 10 days before convening of session if not passed within 4 months or if amended, and upon petition of 3% additional signatures w/i 90 days, submitted to vote. May petition for original form or with legislative amendments. Next regular or general election - majority vote. Constitutional Amendment submitted directly to electors at election more than 90 days after filing.			No veto. If leg. amended and original version is approved by vote, leg. version is void.	Highest number of affirmative votes becomes law.	
Oklahoma	D	No	8% of vote for state office receiving highest number of votes in last election - Statute. 15% of same - Constitutional Amendment	None. Have 90 days after filing initial petition to file signatures.(s)	Next statewide election or governor may call special election.	Majority of votes cast in the election.	No veto.	One receiving greatest number of affirmative votes is paramount.(s) If neither of 2 or more competing measures receives majority one with more than 1/3 total votes placed on ballot at next election (s).	If rejected cannot be proposed for 3 years unless 25% signature requirement is met.

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter	Number of Signatures Required	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
Oregon	D	No	6% - Laws 8% - Constitutional Amendment	Not less than 4 months before election.	Regular general election unless legislature orders special election.	Majority of votes cast on measure.	No veto.	Greatest number of affirmative votes prevails.	Provision for withdrawal of Constitution-Amendment petition.
South Dakota	I D	No	Not more than 5% - Laws Not less than 10% - Constitutional Amendment.	Petition for Constitutional Amendment must be filed at least 1 year before next general election. Submitted directly to a vote. No deadline for petitions for laws which are submitted to legislature. Legislature shall enact and submit to vote of people. Majority vote required. (S) Statute is unclear on procedure when legislature does not act, rejects or amends.			Legislature may repeal but this is subject to referendum - (Court case).		
Utah	I D	No	5% from majority of counties - Indirect 10% - Direct (s)	Not less than 10 days before session - I Not less than 4 months before general election - (s) D Secretary of State is not required to place a measure on ballot if filed less than 120 days before election.	Legislature shall reject or enact with no change. If enacted may be subject to referendum. If not enacted, placed on ballot if additional signatures gathered to equal 10%. Same as direct initiative (s)	Majority of votes cast on measure. (s)	No veto. Can be amended at any time. (s)	Greatest number of affirmative votes becomes law. Subject to review by Supreme Court. (s)	
Washington	I D	No	8%	Not less than 4 months before election (D) or Not less than 10 days before session (I).	Legislature shall reject or enact w/no change. If rejected submitted to a vote. May propose substitute. Vote at biennial regular election or special election.	Majority on measure and at least 1/3 of total votes cast at election.	Cannot be amended for 2 years except by 2/3 vote. Amendment not subject to referendum but can be subject of an initiative.	Ballot allows vote for neither proposal or between two proposals.	

S T A T E	Direct (D) or Indirect (I)	Restrictions on Subject Matter	Number of Signatures Required	Time Limits For Filing	Election At Which Vote Held	Vote Required To Approve	Veto, Amendment, and Repeal Powers	Resolving Conflicting Measures	O T H E R
Wyoming	D	Yes	15% from 2/3 of counties.	Anytime	1st statewide election more than 120 days after filing.	Affirmative vote must be at least equal to 50% of total votes cast in preceding general election.	No veto. Cannot be repealed for 2 years. Can be amended.		Cannot file substantially same subject as defeated w/1 last 5 years.

TABLE II

RESTRICTIONS ON SUBJECT MATTER OF INITIATIVE PETITIONS

<u>RESTRICTION</u> (Initiative petitions cannot address the following subjects)	<u>STATE</u>
1. Dedication of revenues.....	Alabama, Massachusetts
2. Appropriations.....	Alabama, Massachusetts ¹ , Missouri, Montana, Nevada ² , Wyoming
3. Creation of courts, defining the jurisdiction of courts and prescribing rules for courts.....	Alabama, Washington, Wyoming
4. Local or special legislation.....	Alabama, Montana
5. Religious matters.....	Massachusetts
6. Matters reserved to jurisdiction of political subdivisions.....	Massachusetts
7. Matters inconsistent with bill of rights.....	Massachusetts
8. That part of state constitution relating to initiative and referendum..	Massachusetts
9. Exceed limits of legislative authority imposed by the constitution.....	Massachusetts, Nebraska ³
10. Laws for the submission of constitutional amendments.....	Montana
11. Amend constitution.....	Maine
12. Classify property for the purpose of levying different tax rates.....	Ohio
13. Names any individual to an office or names or identifies any private corporation to perform any function or have any power or duty.....	California

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1. Legislature must appropriate funds for programs effected by initiative.
 2. Initiative measure can raise revenues.
 3. Statute specifically excludes taxation.

INITIATIVE--RESTRICTIONS ON SUBJECT MATTER

Initiative measures cannot:

1. Dedicate revenues--Alabama; Wyoming.
2. Make or repeal appropriations--Alabama; Massachusetts (legislature must appropriate funds for programs effected by initiative); Missouri; Montana; Nevada (but can raise revenues); Wyoming.
3. Create courts, define the jurisdiction of courts or prescribe rules for courts--Alabama; Massachusetts; Wyoming.
4. Propose local or special legislation--Alabama; Montana.
5. Relate to religious matters--Massachusetts.
6. Relate to matters reserved to jurisdiction of political subdivisions--Massachusetts.
7. Relate to matters inconsistent with the bill of rights--Massachusetts.
8. Relate to that part of state constitution that excludes certain subjects from the initiative or referendum -- Massachusetts.
9. Exceed the limits of legislative authority imposed by the constitution -- Massachusetts; Nebraska (statute specifically excludes taxation).
10. Laws for the submission of constitutional amendments -- Montana.
11. Amend constitution -- Maine.
12. Classify property for the purpose of levying different tax rates -- Ohio.

INITIATIVE--RESTRICTIONS ON SUBJECT MATTER

About half of the initiative states restrict the subject matter of initiative petitions. The most common restriction prohibits initiative measures from appropriating funds (six states). Three states do not allow the creation, jurisdiction and rules of courts as a subject of an initiative petition. See Table II for a complete listing of states and their restrictions on the subject matter of an initiative petition. Only one initiative state, Maine, does not allow constitutional amendments to be proposed by initiative.

Two states take a reverse approach and allow the initiative for specific subjects only. Illinois allows the people by initiative petition to amend the legislative article of the state constitution. Florida permits the initiation of constitutional amendments only. These two states are included in Table I but are not included in calculations in this commentary relating to the number of initiative states and the various percentages relating to features of state initiative provisions.

INITIATIVE--SIGNATURE REQUIREMENTS

Table I lists the signature requirements for initiative petitions. In nineteen of the initiative states the percentage of signatures required is based on the number of votes cast for governor in the last preceding regular general election. In Colorado the percentage is based on total votes cast for secretary of state and in Oklahoma the total votes cast for the office receiving the greatest number of votes in the last general election is used. In addition, seven states require a geographic distribution of signatures to assure that a proposal is founded on more than mere local interest. For example, Missouri requires eight percent in each of two-thirds of the congressional districts in the state. (See Wyoming, Nevada, Utah, Alaska, Montana and Ohio in Table I for other geographical requirements.)

Signature requirements vary depending on the type of initiative--direct or indirect--and whether the proposed measure is a statute or a constitutional amendment. Requirements for directly initiated laws vary from five percent to fifteen percent with eight percent (five states) and ten percent (four states) being the most common. For indirectly initiated laws there is no common requirement. Maine and Nevada require ten percent, South Dakota and Utah require five percent, Massachusetts and Ohio require three percent and Michigan, eight percent. In three indirect initiative states if the legislature fails to enact the measure, additional signatures are required to place the proposal on the ballot.

Signature requirements for direct initiation of constitutional amendments range from eight percent to fifteen percent. Ten percent is the most common requirement (nine states). Signature requirements for constitutional amendments submitted to the general assembly range from three percent (one state) to ten percent (one state). The remaining state requires five percent. There appears to be no correlation between the size of a state and the number of signatures required on an initiative petition.

INITIATIVE--APPLICATION AND CIRCULATION

In most states before a petition for an initiative can be circulated a copy with the signatures of "sponsors" (a specific number in a few states) must be filed, usually with the secretary of state (even for indirect initiatives) who checks it for the proper form. In at least five states the review function is performed by the attorney general. In Massachusetts and California the attorney general also reviews the substance of the measure to insure proper drafting. In Alaska the initial petition is submitted to the lieutenant governor for review. (The Alaska lieutenant governor exercises several functions traditionally assigned to the secretary of state including being the chief state election officer.) In at least six states the attorney general writes the ballot title at this point. In Ohio and Arkansas, the sponsors submit a ballot title (in Ohio this may be done either before or after the circulation of petitions), however the attorney general may change the ballot title. In California, the attorney general also writes a summary of the proposal and the Department of Finance and the Joint Budget Committee prepare a fiscal note. Missouri, Ohio and Oregon also require preparation of a statement of the fiscal effect of the proposal. Oregon statute requires fiscal information be included on the ballot.

Filing fees are required in California (amount not specified), Utah (\$50) and Wyoming (\$100). In California the fee is refunded if the measure qualifies for the ballot and in Wyoming the fee is refunded if the petition is properly filed. Maine, Utah and Idaho statutes require the petitioners to pay for petition forms or to pay the cost of printing the forms, or both.

Most states require that a petition can only be circulated by a sponsor and only in person. Prohibitions against and penalties for paying someone to circulate a petition are common, as are penalties for fraudulent signatures.

INITIATIVE--FILING OF PETITIONS--VERIFICATION

Most state constitutions place time limitations on the filing of petitions and specify with whom the petition must be filed. In nine states the petition for a direct initiative must be filed at least four months prior to the election. For indirect initiatives filing deadlines range from ten to thirty days before the convening of the legislative session. Maine and South Dakota allow the filing of a petition for an indirect initiative after the legislative session has convened.

In almost all states the petitions must be accompanied by an affidavit from the circulator attesting to the validity of the signatures. Several states, Washington and Nebraska among them, also require that a statement of contributors and circulation expenditures accompany the petition.

Verification of actual signatures ranges from a random sampling in California if the number of signatures on a petition is more than five hundred and the total exceeds one hundred ten percent of the requirement, to a check of each name against voter registration lists, usually done by county officials within prescribed time limitations.

INITIATIVE--PUBLICITY

Statutes of initiative states indicate that a high priority is placed on informing prospective voters about initiative propositions which appear on the ballot. Some states require publication of an initiative notice in newspapers across the state prior to the election, others require that ballot pamphlets summarizing and stating the pros and cons of a proposal be mailed to every registered voter at state expense. A Colorado statute requires publication of a proposal at the sponsor's expense twice in a newspaper in each county prior to the collection of signatures. The Colorado Supreme Court ruled the statute unconstitutional because it "impairs and limits the initiative right reserved to the people by the Colorado Constitution."

Nebraska requires publication of the text of an initiative proposal in each legal newspaper of the state once each week for three weeks at state expense. Petitioners only may submit arguments for the proposal and any person may submit arguments against the proposal. The arguments shall be published with the text at the expense of the persons offering the arguments. Michigan law requires that copies of the "statement of purpose" of an initiative proposal be sent to newspapers in the state with the request that the newspapers give "as wide publicity as possible" to the question. The statute prohibits the state from paying any resultant publication expenses.

Oregon provides for the appointment of a special committee to develop an impartial explanation of an initiative proposal for publication in the ballot pamphlet. The proponents select two committee members, the secretary of state selects two more from among the opponents and the four so chosen select a fifth person. Once the committee drafts a statement, a public hearing must be held to receive suggested changes. In other states that require an impartial explanation of an initiative proposal for purposes of a voter pamphlet or the official ballot the function is usually assigned to either the attorney general or the secretary of state.

Montana has perhaps the most detailed statute for developing arguments on an initiative petition. Two committees are chosen, one, a three-member committee of proponents appointed by the sponsoring organization and the other a five-member committee of opponents appointed by the governor, the attorney general, the president of the senate and the speaker of the house. The committees have thirty days from their appointment to develop arguments limited to five hundred words. The statute also provides for rebuttal arguments. Each committee member may receive expenses not to exceed an average of \$50 per each member. The state also pays expenses incurred in preparing the arguments.

INITIATIVE--ELECTION, VETO, AMENDMENT AND REPEAL PROVISIONS

Initiated measures in most states are voted on at the regular general election. Five states allow either the governor or the legislature to call a special election to consider an initiative proposal. In all but five states a simple majority of the votes cast on the measure is required for adoption. In Massachusetts the affirmative vote must at least be equal to thirty percent of the total votes cast in the general election at which the measure appears on the ballot, in Washington the affirmative vote must equal at least one-third of the votes cast in the election and in Nebraska the percentage is thirty-five. Wyoming requires the affirmative vote to equal at least fifty percent of the total votes cast in the last preceding election and Idaho requires the affirmative vote to be at least equal to the number of votes cast for the winning candidate for governor in the same election.

The gubernatorial veto does not apply to an initiated measure in any of the initiative states, however the powers of the legislature to amend or repeal such measures vary among these states. The Arizona Constitution prohibits the amendment or repeal of an initiated measure. California allows either amendment or repeal but the action must be submitted to a referendum. Arkansas and North Dakota allow amendment or repeal at any time upon a two-thirds vote. In Washington an initiated measure cannot be amended or repealed for two years except upon a two-thirds vote. Wyoming

does not allow the repeal of an initiative measure for two years regardless of the vote; in Nevada the legislature cannot amend or repeal an initiative for three years.

REFERENDUM--FEATURES AND SIGNATURE REQUIREMENTS

In twenty-two of the twenty-four states that allow the referendum upon voter petition, the state constitution prescribes the major substantive and procedural features of the referendum system (Idaho and Utah are the exceptions). The procedure for filing, circulating, verifying and voting on a referendum petition against an act (or in at least sixteen states a portion of an act) is similar to that prescribed for the initiative and will therefore not be discussed in any detail. In most states allowing a referendum upon voter petition, an act is not effective until ninety days following legislative adjournment and the referendum petition must be filed within the time period. Signature requirements for a referendum petition are generally lower than for an initiative. Signature requirements range from a high of fifteen percent in Wyoming to a low of one and one-half percent in Massachusetts. The percentage is usually of the total votes cast for governor in the last general election and the most common percentage is five percent (ten states) while six states require ten percent. Three states (Massachusetts, Nebraska and Montana) require a higher percentage when the petition requests suspension of the measure until after the election. In addition six states incorporate geographical requirements into the percentage requirement. Table III depicts the key provisions of state constitutions and statutes relating to the referendum upon voter petition.

NOTE: Statutory provisions described in this table are followed by an (s). All other provisions are constitutional.

TABLE III

STATE CONSTITUTIONAL AND STATUTORY PROVISIONS ON REFERENDUM

S T A T E	Restrictions on Subject	Apply to Portion of Act?	Legislative Power to Refer ²	Signature Requirement ³	Filing Deadlines	Does Referendum Suspend a Measure?	When Voted Upon	Vote Required	Veto, Repeal, and Amendment Powers
Alaska	Yes	No -(Attorney General's Opinion.)	No	10% in 2/3 of election districts	Not more than 90 days after adjournment.	No -(Supreme Court decision).	First statewide election more than 180 days after adjournment of legislature.	Majority of votes on measure.	
Arizona	Yes	Yes	Yes - Legislature can also submit repeal of initiative.	5%	Not more than 90 days after adjournment.	Yes	Next regular general election.	Majority of votes on measure.	No veto.
Arkansas	No	Yes	No	Constitution any number not less than 6%. Also requires that in at least 15 counties signatures must be secured from at least 1/2 this percentage of voters in the last gubernatorial election.	Not later than 90 days after final adjournment or a recess extending longer than 90 days.	Yes, only that part against which the referendum is filed. Does not suspend emergency statute. (court case)	Regular general election.	Majority of votes on measure.	
California	Yes	Yes	Yes	5%	Within 90 days of enactment.	Yes, except referendum against a portion only suspends that portion.	Next general election held at least 31 days after measure qualifies or at special election Governor may call election.	Majority of votes on measure.	May amend or repeal.

1. See Table IV-listing of restrictions on subject matter for referendum.

2. The states of Georgia, Illinois, New Hampshire, New Jersey, North Carolina, South Carolina, Vermont, Virginia and Wisconsin allow only the legislature to submit an Act to the people in a referendum.

3. Unless otherwise noted, percentage is a percentage of the total number of votes cast for governor in the last preceding gubernatorial general election.

S T A T E	Restrictions on Subject	Apply to Portion of Act?	Legislative Power to Refer ²	Signature Requirement ³	Filing Deadlines	Does Referendum Suspend a Measure?	When Voted Upon	Vote Required	Veto, Repeal, and Amendment Powers
Colorado	Yes	Yes	Yes	5% of votes cast in last election for secretary of state.	Not more than 90 days after adjournment.	Yes, except referendum against portion of Act suspends only that portion.	Biennial regular election.	Majority of votes on measure.	No veto.
Idaho	Yes (Court Case)		No	10%(s).	Not more than 60 days after adjournment (s).	Yes (s).	Next biennial election(s).	Majority of votes on measure(s).	
Kentucky	Applies only to a law or constitutional amendment or portion thereof classifying property and providing a lower rate of taxation on personal property than on real estate.		Yes	5%	Not more than 4 months after adjournment.	Yes, but only those sections against which referendum is filed.	Regular general election or special election called by legislature.	Majority of votes on measure.	No veto.
Maine	Yes	Yes (or more than 1 Act).	Yes	10%	Not more than 90 days after adjournment.	Yes.	Next regular election held not less than 60 days after petition qualifies. If no election w/in 6 months governor may call.		No veto. Legis. cannot amend Act against which petition has been filed. (Ct. ruling)
Maryland	Yes	Yes	Yes	3% - not more than 1/2 from Baltimore or any one county.	By June 1. (All bills except emergencies are effective 6/1).	Yes, suspends the Act or portion except emergency laws.	Biennial general election.	Majority of votes on measure.	
Massachusetts	Yes	Yes	No	2% when suspension is requested-1.5% on emergency law or when suspension not requested.	Not more than 90 days after adjournment.	Yes, except emergency laws and governor may declare a law an emergency which terminates a suspension.	Next general election held more than 60 days after filing.	Majority which must be equal to at least 30% of total votes cast in election.	

S T A T E	Restrictions on Subject	Apply to Portion of Act?	Legislative Power to Refer ²	Signature Requirement ³	Filing Deadlines	Does Referendum Suspend a Measure?	When Voted Upon	Vote Required	Veto, Repeal, and Amendment Powers
Michigan	Yes	Yes	Yes	5%	Not more than 90 days after adjournment.	Yes (Attorney general's opinion).	Next general election.	Majority vote on measure.	No veto. May be repealed or amended anytime.
Missouri	Yes	No (court case).	Yes	5% in 2/3 of Congressional districts.	Not more than 90 days after adjournment.	Yes (court case).	Next general election or general assembly may call special election.	Majority of votes on measure.	No veto.
Montana	Yes		Yes	5% in 2/5 of counties.	Not more than 6 months after adjournment.	No, unless petition is signed by 15% in majority of the whole number of counties.	Biennial regular election or general assembly may call special election.	Majority of votes on measure(s).	No veto.
Nebraska	Yes	Yes	No	5%. 10% to suspend.	Not later than 90 days after adjournment.	Not emergency Acts and other Acts only upon gathering additional required signatures.	Next general election held more than 30 days after filing.	Majority vote on measure which must be at least equal to 35% of total votes cast in election.	No veto.
Nevada	No	Yes	No	10% of number voting at last preceding general election.	Not later than 4 months prior to election(s).		General election (s).	Majority of votes on measure.	If approved, cannot be amended, repealed, or suspended except by vote of people.
New Mexico	Yes		No	10% of number voting in last general election in 3/4 of counties.	Not later than 4 months before general election.	Yes, upon meeting a 25% signature requirement and filing within 90 days of adjournment.	General Election.	Majority which shall not be less than 40% of total votes cast in election.	Can repeal.
North Dakota (existing)	No	Yes	No	7,000	Not later than 90 days after adjournment.	Yes, except emergency Acts.	Any statewide election designated in petition or at special election set by governor and requested by 30,000 signatures.	Majority of votes on measure.	No veto, amend or repeal only upon 2/3 majority.

S T A T E	Initiations on Subject	Apply to Portion of Act?	Legislative Power to Refer ²	Signature Requirement ³	Filing Deadlines	Does Referendum Suspend a Measure?	When Voted Upon	Vote Required	Veto, Repeal, and Amendment Powers
North Dakota (Proposed)	No	Yes	No	2% of resident population.	Not later than 90 days after measure is filed with Secretary of State.	Yes, except emergency and certain appropriations.	Statewide or special election called by governor.	Majority of votes on measure.	No amendment or repeal for 7 years except upon 2/3 majority.
Ohio	Yes	Yes	No	6% of electors of state must file from each of 1/2 of the counties petitions with signatures equal to not less than 3% of the number of qualified electors in the county.	Within 90 days of filing of law by governor with secretary of state.	Yes	Next general or regular election held more than 60 days after filing petition.	Majority of votes on measure.	No veto.
Oklahoma	Yes		Yes	5% of votes cast for state office receiving the highest number of votes in last election.	Within 90 days of adjournment.	Yes (A court has ruled that referendum only applies to laws that have not become effective.)	Next statewide election or at a special election called by governor or legislature.	Majority of votes on measure.	No veto. If rejected, vote cannot be held on similar issue for 3 years unless 25% signature requirement is met.
Oregon	Yes	Yes	Yes	4%	Within 90 days of adjournment.	Yes, only portion against which referendum is filed.	Next regular general election or special election called by general assembly.	Majority of votes on measure.	No veto.
South Dakota	Yes		No	Constitution provides that signature requirement shall not be more than 5% (statute sets at 5%)	Within 90 days of adjournment(s)	Yes	Next statewide election(s)	Majority of votes on measure.	No veto.
Utah	Yes	Yes(s)	No	10% and from a majority of counties. (s)	Within 60 days of adjournment and at least 105 days before election at which measure is to be submitted(s).	Yes(s)	Next general election(s).	Majority of votes on measure(s).	No veto.

S T A T E	tions on Subject	Apply to Portion of Act?	Legislative Power to Refer ²	Signature Requirement ³	Filing Deadlines	Does Referendum Suspend a Measure?	When Voted Upon	Vote Required	Veto, Repeal and Amendment Powers
Washington	Yes	Yes	Yes	4%	Within 90 days of adjournment.	Yes	Biennial regular election or legislature may call special election.	Majority and at least equal to 1/3 of total votes cast in election.	No veto. Cannot be amended for 2 yrs. except by 2/3 vote of legi
Wyoming	Yes	No	No	15% from 2/3 counties.	Within 90 days of adjournment.		First state election held more than 180 days after adjournment.	Majority plus affirmative vote must be at least equal to 50% of total vote in last general election.	

TABLE IV
 RESTRICTIONS ON SUBJECT MATTER
OF REFERENDUM PETITIONS

<u>RESTRICTION</u> (Referendum petitions cannot address the following subjects:)	<u>STATE</u>
1. Statutes dedicating revenues.....	Alabama, Wyoming
2. Acts making appropriations.....	Alabama, Michigan ¹ , Montana, New Mexico, Wyoming
3. Local and special legislation.....	Alabama, Massachusetts, Montana, New Mexico, Wyoming
4. Emergency laws (laws "necessary for the immediate preservation of the public peace, health or safety").....	Alabama, Arizona, Colorado, California, Maine, Idaho, Michigan, Montana, New Mexico, Ohio, Oklahoma, Oregon, South Dakota, Washington, Wyoming
5. Laws for the support and maintenance of the departments of state and state institutions.....	Arizona, Colorado, Massachusetts, Maryland ² , Michigan, Missouri ³ , Nebraska, New Mexico, Ohio, South Dakota, Washington
6. Statutes calling elections.....	California
7. Statutes levying taxes.....	California, Ohio ⁴
8. Appropriation for usual current expenses of the state.....	California, Massachusetts, Ohio
9. Laws relating solely to legislative operations or to salaries fixed by law.....	Maine
10. Laws relating to religion.....	Massachusetts
11. Laws relating to appointment, qualification, tenure, compensation and removal of judges.....	Massachusetts
12. Laws relating to the creation and powers of courts.....	Massachusetts
13. Laws for submission of constitutional amendments.....	Montana

RESTRICTION

(Referendum petitions cannot
address the following subjects:)

STATE

14. Laws relating to creation and
payment of public debt.....Utah
15. Any measure enacted by a
2/3 vote.....Utah

-
1. To meet deficiencies in state funds only.
 2. Only when the amount does not exceed the amount of the
next previous appropriation.
 3. Including public schools.
 4. Or classifying property for the purpose of levying
different tax rates.

REFERENDUM--THE ISSUE OF SUSPENSION

One common criticism of the referendum is the provision for suspension of an act or portion of an act while a referendum is pending. It is argued that the effect of a suspension can severely impair state government administration or programs. While only one state (Alaska) does not allow the filing of a referendum petition against an act to suspend the effect of the act until after the election, the remaining states have dealt with the issue either through general restrictions on the subject matter of a referendum petition or by prohibiting the suspension of Acts relating to certain subjects. Sixteen states do not allow the referendum on emergency laws (which usually require a two-thirds vote for enactment). Six additional states prohibit the suspension of an emergency measure against which a referendum petition has been filed. (The remaining state, Kentucky, allows a referendum only on measures classifying property and providing a lower rate of taxation on personal property than on real estate.) The suspension of an appropriation for the operation of state government might also have unsettling effects. Fifteen states exclude either appropriations in general or appropriations for the support of state government from the referendum process. One of these states (Maryland) allows a referendum only on the amount of an appropriation that exceeds the previous year's appropriation for the same purpose. Table IV lists the restrictions placed on the subject matter of referendum patterns by the various states.

USE OF INITIATIVE AND REFERENDUM

Among the twenty-six states that allow the initiative or the referendum or both, use of the options varies considerably. Data available on the use of the referendum upon voter petition indicates that the use of this option has declined in recent years. In California, a referendum petition has not qualified for the ballot since 1942.(1) Oregon voters have placed fifty-one referendum petitions on the ballot since 1902, however only two of the fifty-one petitions were filed between the years 1963-1973.(2) California State University Political Science Professor Charles M. Price attributes this decline in use of the referendum option to the difficulty of gathering signatures within the time limits set by state constitutions and to the fact that state legislatures usually avoid enacting a measure upon which a substantial portion of the electorate has voiced strong opposition.

The indirect initiative is not used extensively. Submitting a proposed measure to the legislature first complicates the procedure and in some states that allow the indirect initiative for statutes and the direct initiative for constitutional amendments, proponents have found it easier to gather the additional signatures

and directly propose a constitutional amendment on a given subject matter. (This sometimes results in the incorporation into the state's constitution of provisions that are more appropriately addressed by statute. It also makes repeal of an unworkable measure more difficult.)

TABLE V
NUMBER OF DIRECT INITIATIVE STATUTES AND CONSTITUTIONAL
AMENDMENTS QUALIFYING AND ADOPTED
1962-1972(3)

<u>State</u>	<u>Number Qualifying</u>	<u>Number Adopted</u>
California	20	6
Washington	12	6
Colorado	12	5
Oregon	12	3
North Dakota	11	4
Oklahoma	9	2
Arizona	8	6
Arkansas	4	2
South Dakota	3	0
Massachusetts	2	2
Michigan	2	1
Ohio	2	0
Idaho	1	1
Montana	1	0
Alaska	1	0
Missouri	1	0
Nebraska	1	0
Nevada	1	0
Utah	1	0
Florida(4)	0	0
Wyoming(5)	0	0

Price identifies the following categories of initiative states in relation to the frequency with which the option is used:

1. States where the initiative option has been used consistently, but in some cases with moderate decline in recent years.

2. States where the initiative option was used with some frequency for several decades after its adoption.

3. States where the initiative has never been used extensively.(6)

States in the first category Price describes as high use states (See Table V). He observes that extensive use of the di-

rect initiative appears to be a western phenomenon. Price suggests that this might stem from the fact that when the progressive movement swept the country with its direct democracy reforms, the western states had only recently achieved statehood and the initiative and referendum were incorporated into the political systems when the political culture and institutions were not yet well defined. Thus, in the western states, use of the initiative in particular has become a political tradition and an institution in itself that developed concurrently with legislative and executive institutions.

In most high use states, the electorate has become adept at organizing initiative campaigns. In California, public relations firms have surfaced that specialize in initiative campaigns.

Missouri, Ohio and Montana are examples of states where initiative use has declined dramatically in recent years. There appears to be no correlation between this decline and voter rejection of initiative measures. Price also compares the degree of difficulty of a state's requirements for placing an initiative measure on the ballot and the frequency of use of the initiative option and concludes there is little relationship between qualifying procedures and the number of initiative measures reaching the ballot.(7) The size of the legislature and the presence or absence of limits on the length of legislative sessions also do not appear to be related to the number of initiative measures appearing on the ballot.(8) It appears that in most initiative states (categories 2 and 3) the initiative mechanism has never become institutionalized as a part of the legislative process.

Price points out that even in the "high use" states initiative measures are not qualifying as frequently as they used to. The Price article offers several explanations:

1. The major reforms people wanted have been attained.
2. The legislature is more receptive to groups seeking change.
3. Today's problems are so complex that the electorate is apprehensive about offering solutions.
4. Signature requirements are prohibitive.(9)
5. Modern society is so complex that divisions of labor have become imperative. Government decisions have fallen to persons with specific competencies. "Direct democracy has no place in the age of organization."(10)

While political scientists search for explanations for the decline of the initiative in the fifties and sixties, yet another trend may be emerging. With Californians leading the way, the

initiative is once again gaining in popularity as a mechanism for voter input on social and political issues. Thus far in the seventies, one hundred twenty issues have been placed on state ballots by voter initiative. In 1976, forty-four initiative measures were on state ballots; in 1978, voters decided on some forty initiative proposals. California's Proposition 13 in June 1978 is perhaps the best known initiative measure to be considered in recent years. However, since 1970 Californians have also considered several controversial issues including coastal zone management, marijuana, and clean air initiatives in 1972, and two nuclear power initiatives in 1976. Of these only the coastal zone management initiative was approved. In 1976, North Dakota voters rejected an initiative measure that would have limited state spending to \$332,000,000. Similar proposals to place limits on state spending were defeated the same year in Michigan, Montana, and Utah. Colorado rejected two initiative measures, one that would have required voter approval of tax levies, the other to repeal the sales tax on food.

In November 1978 initiative proposals on state ballots ranged from a controversial measure in California relating to the right of homosexuals to teach in schools to a proposal in Florida to allow casino gambling. The California initiative generated considerable controversy as proponents and opponents disagreed on the effect of the proposal. Opponents asserted that it would not only prohibit professed homosexuals from employment as teachers but that it may also apply to teachers who are not homosexual but who voice support for the right of homosexuals to practice their lifestyles. The proposal was rejected. California voters also rejected a proposal to ban smoking in designated public places. It is estimated that the tobacco industry spent \$6,000,000 in an opposition campaign.

In North Dakota voters rejected an initiated proposal to have the state regulate health care rates. The state medical officer who would be charged with setting the rates described the measure as too unwieldy to enforce.(11) In neighboring South Dakota voters rejected a proposal to prohibit declining block utility pricing systems and to require lifeline rates. Utility rate reform was also the subject of a voter initiative adopted in Oregon. Oregon voters also approved, despite stiff and well-financed opposition from dentists, a measure to allow technicians to fit and install false teeth. Montana voters approved a proposal requiring voter approval of the construction of nuclear power plants in the state.

Tax issues appeared on the ballots in at least nine states. Nebraska voters defeated a proposal to limit tax increases to five percent a year. North Dakota, Nevada, Montana, Colorado, Arkansas, and Michigan also had tax limitation initiatives.(12)

Michigan's tax proposals (three in all) generated national attention. Voters rejected a Proposition 13 style measure designed to decrease property taxes and affecting their sources of state

revenue. They approved a proposal to limit state taxes and revenue to the current proportion of total state personal income. The measure also limits growth of property taxes to no more than increases in the national rate of inflation and requires voter approval of state and local tax increases. The third proposal which was defeated would have prohibited the use of property taxes for school finance and instituted a voucher system for school funding. Under the third proposal all schools, public and parochial, would have been financed by direct state aid and enrollment would be open. Colorado's tax initiative tied government spending to the consumer price index. It was defeated as were the proposals in Oregon (patterned after Proposition 13) and Arkansas.

Missouri voters defeated a right to work initiative after a heated campaign during which it was estimated that proponents and opponents spent a total of \$4,000,000.

In a pre-election article on initiative and referendum issues on the November 7 ballot in the various states, Time magazine observed:

"In many states, the referendums are arousing more interest from voters than the races for public office. A poll in Michigan found that 62% of the voters thought several complicated tax propositions were the most important items on the ballot; only 18% gave top priority to the gubernatorial race. But Michigan referendums are wild cards in the political deck--as is often the case in other states. The Michigan tax questions are so widely misunderstood (one expert's analysis showed that only persons with college-level reading skills understand them) that the League of Women Voters and the Detroit Free Press have urged their defeat."(13)

Still, the initiative bandwagon is rolling once again, and has spawned a movement to allow the initiative on the national level. The proposed federal constitutional amendment would require signatures of three percent of the voters in ten states to place a proposal on the ballot. (The national initiative would apply only to laws and initiative proposals could be voted on only in national elections held in nonpresidential years.) The movement has been organized by a Washington group called Initiative America. While a Gallup poll found that Americans favored a national right of initiative, fifty-seven percent to twenty-one percent, many state legislators, political scientists and others have reservations about direct democracy and its effects on the political process. Arguments for and against the rights of initiative and referendum are examined in the final segment of this report as well as problems and suggested reforms in those states that presently afford the citizenry these powers.

INITIATIVE AND REFERENDUM--ARGUMENTS, PROBLEMS
AND SOLUTIONS

As Congressman John E. Raker stated in the Congressional Record sixty-eight years ago:

"The Initiative, (and) Referendum, . . . are closely connected parts of the same political theory. The people elect representatives; if these representatives don't carry out the will of the people, then the people initiate legislation. If their representatives transgress the will of the people, then the people, through the referendum, repeal the laws which their representatives have made. . . . This political theory constitutes democracy in action."(14)

Direct democracy's emphasis on the "people" and their control over public policies raises many questions including the effects of this system on the role and performance of the legislative body, the effect of interest groups on policy output, and the ability of the individual to make decisions that reflect his or her best interests. This part of the report will present arguments offered by proponents and opponents of direct democracy as the effects of direct democracy on three primary elements in our political system--the legislature, interest groups and the individual voter--are examined.

Data on the use of direct democracy in the various states is severely wanting. Most of the comprehensive studies are outdated and later studies have not taken a systematic approach but rather have analyzed specific policy issues addressed in recent initiative campaigns. Also much of the current data on interest group involvement and policy output comes from the states of California and Washington, which as noted are high-use states and the conclusions of these studies should be considered in this context.

EFFECTS OF DIRECT DEMOCRACY ON THE LEGISLATURE

Charles M. Price in his assessment of the initiative process recognizes that direct democracy is traditionally associated with a legislature that "has failed to perform its prime function: resolving conflict among competing interests."(15) Using the ranking of state legislatures devised by the Citizens Conference on State Legislatures(16) in The Sometimes Governments, Price concludes that there is no statistical difference in the quality (both overall and in terms of accountability) of the state legislature in states that allow the initiative and referendum as opposed to states that do not provide for these mechanisms. In fact, Price discovered that in states where the initiative is used with some frequency, the state legislature ranked higher in

effectiveness than in states that allowed the initiative, but where the device was rarely used.(17)

Closely related to the notion that poor legislatures associate with initiative states is the idea that citizens in initiative states are frustrated again because the legislature has failed to respond to their demands. Price also disputes this conventional wisdom by using a "Quality of Life" index developed by the Midwest Research Institute. His correlations reveal a statistically significant difference in the "Quality of Life" rankings of high-use compared to low-use initiative states, with the high-use states ranking higher on the index. Price found little difference in the "Quality of Life" rankings of initiative states generally, and those of noninitiative states.(18)

One of the major concerns of critics of direct democracy is that the people might approve a measure that would be detrimental to propertied interests or would commit the state to an expensive program. In their analysis of Washington state's experience with the initiative and referendum, Bone and Benedict note that this has rarely happened in Washington and that only once in the last sixty years has the legislature perceived a need to exercise its power to amend a statute enacted by the people.(19) However, Bone and Benedict do state that the referendum has been used to reject spending programs and certainly this could have an equally debilitating effect on state government as would a large expenditure of public funds. One must also keep in mind that Bone and Benedict are commenting only on Washington's experience with direct democracy, which may or may not parallel the experiences of other initiative states. Price responds to the charge that persistent use of the tools of direct democracy has a limiting effect on state government by correlating the frequency of initiative use with two different indexes designed to measure the innovativeness(20) of state legislatures. He concludes that there is no difference in the "innovativeness" of legislatures in initiative states compared to noninitiative states.(21)

In examining the effects of initiative and referendum on the role of the legislature one must turn to the theorists for arguments. What Congressman Raker described as "democracy in action" becomes to its critics a lack of faith in the representative form of government. Supporters of direct democracy view the mechanism as a logical expansion of the supremacy of the people as stated in the United States Constitution, while opponents charge that the system subverts the American principle of restricted majority rule. While opponents express concern that direct democracy does not allow for debate, thorough consideration, refinement and compromise on an issue, proponents emphasize that when legislators as "agents of the people" fail to respond the people have the right and the ability according to democratic theory to work their will. While proponents view direct democracy as a supplement to rather than a substitute for the legislative process, opponents fear that

it would create two competing legislative bodies, and would destroy the important "check" of a gubernatorial veto, paving the way to government by minority factions.

Another issue that is used by both proponents and opponents of direct democracy arises when the legislature deliberately defers to or uses the initiative or referendum process on a controversial issue. Opponents see this as an example of the legislature avoiding its responsibilities. Yet Price contends that the initiative is desirable because of this feature--it allows for conclusive "decisions on particularly sensitive, hard to resolve, issues."(22) An article appearing in the February/March 1978 issue of State Government notes that some legislators also feel direct democracy plays an important role in resolving conflicts because it aids the legislator in assessing public opinion. As an Ohio state representative commented "Even if an initiative is defeated, it's important. If there are that many people interested in an issue to put it on the ballot then it is up to the legislature to work on that issue."(23)

ROLE OF INTEREST GROUPS IN DIRECT DEMOCRACY

In any discussion of direct democracy the question of the responsiveness of the legislature to citizen concerns is bound to surface. Advocates of the initiative and referendum maintain that the availability of this mechanism alone enhances the responsiveness of the legislature.

Opponents of direct democracy respond by pointing out that in a republican form of government frequent elections are sufficient to insure that legislators are responsive to the people's demands. They also charge that initiative proposals too often reflect the interests of a special group, who publicize their proposal as being in the public interest when it, in fact, is not. This last statement suggests that the role of interest groups in the initiative process needs to be examined.

Even proponents of direct democracy do not agree on the actual role interest groups play in the process. As Bone and Benedict note:

"One line of thought was not so much that special interest decision-making would be completely eliminated, but that less special group manipulation would occur than if all decisions were left in the hands of the legislature. However, a totally opposite interpretation was that direct legislation mechanisms could be used by certain groups which appeared to be left out of policies, programs, and benefits distributed by the legislature. The disadvantaged group in effect could seek to supplement what the legislature had done--this would be an extending and/or correcting

function. Although sponsored by a private group and aiding that group, the effect might promote the public interest by bringing the out-groups in or by promoting greater equity."(24)

The authors tested both assertions by examining initiative proposals in Washington over a sixty-year period. They found that short-term interest groups were formed to support an initiative proposal one-fourth of the time. Short-term interest group proposals were most common for public morals issues, followed by revenue and taxation and then government reforms. Special interest groups sponsoring initiative proposals with some frequency included public employees, sportsmen, and labor, business and agricultural groups. Policy output is difficult to assess. Bone and Benedict found that two out of three initiative proposals benefited a small proportion of the population with a continuing program the likely result. They point out that opponents of direct democracy might interpret this as evidence that direct democracy is a special interest mechanism because policy outputs benefited the minority. Proponents, on the other hand, might point to the thirty-five percent of the proposals that benefited the entire population as evidence that public concerns are reflected in initiative proposals. The authors conclude that neither assertion can be fully accepted because conceptions of the "public interest" vary considerably.(25)

Another concern of opponents of direct democracy that relates to interest group involvement is that since initiative campaigns have become sophisticated and thus expensive, citizen groups have been overpowered by financial interests in the struggle to influence public policy. It has been observed that "only well-organized, rather affluent coalitions of interests can afford to pursue the kinds of professional public relations campaigns associated with most ballot measures."(26) Charles Price disagrees, stating that recent California campaigns suggest this may no longer be true. He cites marijuana, coastal zone management and environmental initiatives as examples of measures placed on the ballot by poorly organized and less affluent groups. In fact, in the last seventeen initiative campaigns in California (not including those measures voted on in November 1978) on eight occasions the side spending the most money lost. Michigan and Missouri also rejected the better-financed interests in mandatory deposit and nuclear power initiatives.

Political scientists have observed a correlation between strong interest groups and initiative states. Fish suggests that the resurgence in use of the initiative in California "may be related to legislative professionalism which restricts the old easy access to the legislature enjoyed by special interests."(27) However, the nature of recent California initiative proposals (property tax, government spending, environment concerns, public morality) seems to diminish the credibility of this argument.

ROLE OF THE INDIVIDUAL IN DIRECT DEMOCRACY

Direct democracy deals with issues rather than candidates. Proponents argue that since candidates can project false images and make promises that they never intend to keep, initiative and referendum are essential tools of democracy because they transform policy preferences into policy outputs. Furthermore they note that if the initiative and referendum were available to the electorate, voters and interest groups might not work to defeat an otherwise effective legislator because of his or her view on a single issue.

Because initiative campaigns do tend to involve emotional and often clear cut issues, and are frequently accompanied by expensive and sometimes deceptive advertising efforts, it is argued that the voter is not able to make a choice between carefully argued positions. Further, even if the voter were able to understand the purpose of a measure and accurately perceive his or her interest, the proposal may not be written so as to accomplish what the voter thinks that it will.

Critics of direct democracy note that voter interest in propositions has never been as intense as interest in gubernatorial races. This appears to be true according to Bone and Benedict, who also found that in Washington voter turnout is greater for emotional issues such as public morality than for complex issues such as taxation and government reform. However, Bone and Benedict note that "those who do participate in electoral politics display increasing psychological involvement with issues and less of a feeling that they are too complex or too remote from their major interests."(28) This finding, taken in context, might be used to lend support to proponents assertion that direct democracy increases citizen's education and political efficacy.

Price also agrees that California's experience with direct democracy indicates that California voters are more capable of responding to initiative issues than has been presumed. He cites a finding that California voters do not blindly respond to newspaper endorsements or vote negatively on all issues as supportive of his conclusion.(29) Price cautions that voting trends in California may be a temporary phenomenon, but concludes that a cursory examination suggests that criticisms of voter apathy, indifference and susceptibility can at least be questioned based on California's experience. Hopefully more research in this area will be forthcoming so that these perceptions can be definitely rejected or substantiated.

PROBLEMS AND SOLUTIONS
CONCLUSION

Even proponents of direct democracy agree that the system is not without problems. Political scientists and lawmakers in initiative and referendum states are discussing ways to reform the process.

The amount of money being spent on initiative campaigns is a concern. California and Montana enacted legislation to limit campaign spending but these laws are unenforceable because of the United States Supreme Court decision that declared campaign spending limits unconstitutional. Political Science Professor Charles Price has suggested that public financing of initiative campaigns might be a solution. In California in particular, government officials are also concerned over how the money is being spent. Public relations firms in that state will not only conduct an initiative campaign but will also, for a fee, guarantee the required number of signatures on the petition. Colorado is considering legislation to forbid using newspaper ads to gather signatures. Many states presently require petitions to be circulated only by "sponsors" and only in person. Some state laws also prohibit paying a person to collect signatures and others require a statement of contributions and expenses to be filed with the petitions.

States are also seeking ways to insure that the voters are well informed before they cast their ballots and to insure that an initiative proposal is thoroughly considered. Price has suggested public hearings be held throughout the state on a proposal after a specified number of signatures are gathered but before the signature requirements are fulfilled. Many states now send out information pamphlets to all voters and require publication of the proposals in newspapers prior to the election.

California's Proposition 13 has erroneously been associated by many with the merits of direct democracy. Proponents of 13 applaud the initiative process while opponents of the measure have generalized their opposition to direct democracy per se. The issues must be considered separately. As Price comments: "At the heart of the issue is whether citizens can vote on highly complex problems effectively, and whether one can have much faith or trust in the average citizen's ability to vote responsibly. I am still optimistic, though I was an opponent of Proposition 13 it should be noted that the legislature failed to come up with a satisfactory property tax relief measure, and that California's treasury had an enormous surplus which had become, to use Jesse Unruh's terminology, 'obscene.' So I was not particularly surprised when voters approved the measure. Moreover, the campaign was helped by skyrocketing property tax assessment notices sent out to voters in a number of counties, and in particular Los Angeles, and also

through a skillful campaign that emphasized that voters should 'send the politicians a message.' I must emphasize that, given the arrogance of some politicians and the overwhelming advantages of incumbency, there is something very appealing in the Proposition 13 vote. It appeared to be almost a collective Bronx cheer for the insulated state politicians, and I think this is healthy."(30)

FOOTNOTES

- (1) Charles M. Price, "The Initiative: A Comparative Analysis and Reassessment of A Western Phenomenon," Western Political Quarterly, 28:243-62, (June 1975), p. 247.
- (2) Massachusetts Legislative Research Council Report. "Revising Statewide Initiative and Referendum Provisions of the Massachusetts Constitution," House No. 5435, (February 1975), p. 46.
- (3) Price, p. 248.
- (4) Florida adopted the initiative option in 1968.
- (5) Wyoming data is for 1967-1972.
- (6) Price, p. 259.
- (7) Price, p. 251.
- (8) Massachusetts, pp. 45-46.
- (9) Price, p. 251.
- (10) Price, p. 252.
- (11) Richard J. Cattani, "Voters Face Growing Lists of Decisions," The Christian Science Monitor, Vol. 70, No. 237 (November 1978).
- (12) Cattani, p. 6.
- (13) Time Magazine, "Wild Cards on the Ballot," Vol. 113, No. 18 (October 30, 1978) p. 34.
- (14) John E. Raker, "Congressional Record," 47, May 22, 1911, p. 67 of Appendix, quoted Hugh A. Bone and Robert C. Benedict, "Perspectives on Direct Legislation: Washington State's Experience" Western Political Quarterly, 28:330-51 (June 1975), p. 331.
- (15) Price, p. 256.
- (16) Now Legis 50.
- (17) Price, p. 256.
- (18) Price, p. 258.
- (19) Bone and Benedict, p. 348.
- (20) The innovativeness indexes used were designed by 1) ranking the states in terms of the diffusion of new programs among the states and 2) tracing patterns of adoption of new legislation within a state taking into account political and economic conditions existing at the time of study.
- (21) Price, p. 260.
- (22) Price, p. 262.
- (23) "Initiatives and Referenda," State Legislatures, pub. by National Conference of State Legislatures, Vol. 3, No. 1, (February/March 1977) p. 9.
- (24) Bone and Benedict, p. 331.
- (25) Bone and Benedict, p. 334.
- (26) Peter G. Fish, Duke University, Statement to the Subcommittee on the Constitution of the Committee on Judiciary of the United States Senate, (December 1977) p. 117-173.
- (27) Fish, p. 119.
- (28) Bone and Benedict, p. 340.
- (29) Price, p. 261.
- (30) Charles M. Price, Letter to Philip E. Burks, Iowa Legislative Service Bureau, October 26, 1978.