

Approved April 1, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Aebelius at
Chairperson

1:30 ~~am~~/p.m. on Thursday, February 28, 1991 in room 526-S of the Capitol.

All members were present except:
Representative Arthur Douville - Excused

Committee staff present:
Mary Torrence - Office of the Revisor
Mary Galligan - Kansas Legislative Research Department
Lynne Holt - Kansas Legislative Research Department
Connie Craig - Secretary to the Committee

Conferees appearing before the committee:

Chair Sebelius announced that it was her intention today to review the subcommittee report, to review each resolution, to take questions, but to wait until Monday to take any action. She added that these are very complicated proposals, and she wanted to give the Committee members time to ask questions and compare the Subcommittee report with the original proposals. She thanked the Subcommittee for taking time to work on their report, and then turned the floor to Representative Krehbiel who chaired the Subcommittee.

Representative Krehbiel thanked the members who agreed to be on the Subcommittee and for their hard work on HCR 5003, 5004, and 5005. He added that these proposals were interwoven together, and that he would go through the Subcommittee report on the three proposals as prepared, Attachment #1.

He stated that HCR 5003 would authorize direct initiatives for statutes, Attachment #2. HCR 5004 would authorize direct initiatives for constitutional amendments, Attachment #3. HCR 5005 would authorize contingent referenda, Attachment #4, and 1 RS 1104 would authorize a form of indirect initiative, Attachment #5. He pointed out that 1 RS 1104, Attachment #5, was considered by the Subcommittee as a possible alternative as a format for indirect initiative if the Committee would desire to go that direction. Committee members were given a memo prepared by staff from Legislative Research on indirect initiative in selected states, Attachment #6.

HCR 5003 and HCR 5004

Representative Krehbiel pointed out that in the matter of signature threshold, if you use registered voters with an 8% requirement, the amount would be 96,000 registered voters, 5% would be 60,000; if you used votes cast for Governor, 8% would be 62,000 signatures, and 5% would be 39,000 signatures in round numbers. These numbers were achieved by using the Secretary of State report on registered voters, which is updated twice annually. He noted that the Subcommittee had a substantial amount of discussion concerning the phrase "approval of a proposed law upon a vote of a majority of the registered voters who voted for the law". The idea being that a number of people might go and vote for the Governor or local representative, and then put the ballot in the box without voting for the initiatives. There was some consideration about making that requirement more stringent. Nevertheless, the Subcommittee decided to go with the recommendation in Item #7, Section I, Attachment #1, according to Representative Krehbiel.

Committee Discussion:

- Should an elected official, like the Attorney General, decide if an initiative is to be put on the ballot?
- The courts have struck down two cases that would prohibit paid petition circulators.
- There is no provision in the Subcommittee report for overriding a gubernatorial veto of an initiative. *Staff added that because it is silent on overriding a gubernatorial veto, legislation would need to provide specifically for that.
- The present governor does not concur with retaining a veto, and feels that the word of the people should be supreme.
- The feeling of the Subcommittee was that if the Governor does not have veto power, the Legislature should so that some check and balance be retained.
- In the first legislative session following initiative, it would take 2/3rd's of both houses to amend. The Governor can veto amendments which may, in fact, change the thrust of legislation.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Thursday, February 28, 19⁹¹

- In respect to the geographical requirement, the Subcommittee decided to use congressional districts instead of counties, with the original thought to take 15% from each congressional district. The wording in the recommendation was to say "60% of the signatures, equal amounts have to come from each congressional district". With 5 districts that would come out to around 12% per congressional district, and with 4 congressional districts that would come out to 15% from each of the 4 districts. That way the wording would not have to change as the number of congressional districts changed.

HCR 5005

Representative Krehbiel read the Subcommittee Report, Attachment #1, sections 1 through 5. Representative Krehbiel pointed out that this referenda would permit a bill passed by 2/3rd's of both houses to be referred to the people in a referendum and bypass the Governor's veto.

Committee Discussion:

- There is some consideration that there may be legislators who will vote on the theory "Let the people decide" as opposed to casting a vote that enacts a law.

1 RS 1104

Representative Krehbiel then read Section 3 of the Subcommittee Report, Attachment #1, items 1 through 14.

Committee Discussion:

- The Subcommittee did not make a recommendation on whether the proposals should or should not be passed.
- The highest amount of issues on the ballot would theoretically be: 5 that the Legislature would recommend in terms of constitutional amendments, 3 constitutional amendments by the people, 3 statutory amendments by the people, and 3 referenda measures - for a total of 14.

Representative Roper moved to adopt the Subcommittee Report. Representative Graeber seconded the motion, which passed on a voice vote.

Chair Sebelius adjourned the meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 2/28/91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Aet Miller	PO BOX 105 OTTAWA, KS	SELF
Almeda Edwards	R2 Ottawa	Self
Jain 1723rd	Topeka	Observer
R ANDERSON	OTTAWA	ESSID COZET OF E
JOHN CLARK	OVERLAND PARK	CITY OF OVERLAND PARK
Will Belden	Topeka	League of Women Voters of KS
Michelle Lister	Topeka	John Peterson & Associates
Jack Berg	Topeka	RPT
FRANCES KASTNER	Topeka	KS Food Dealers Assn
Bill R. Fuller	Manhattan	Kansas Farm Bureau
JAN SANDOVAL	Lawrence	LWVK
M. Shields	Topeka	Harris News
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Steve Tallott	Lawrence	Rep. FAKER
Pat Higgins	Topeka	Gov. Office
Tom Tunnel	"	KS GRAIN & FEED ASSN
Jim Masg	"	RBA
DON LINDSEY	OSAWATOMIE	UTU
Kelli Metzinger	Haysville	
Michael Wolff	Topeka	Common Cause/KS
Joy Ginsburg	Lawrence	Rep. Donna Whiteman
Scott Carver	K.C.	K.C. STAR
JEFF DEGRAFFENREID	TOPEKA	B Volley School Dist
REBECCA BOSSEMEYER	TOPEKA	SOS
Paul Shelkey	Topeka	OJA
PATRICIA HENSHALL	TOPEKA	OJA

MEMORANDUM

Kansas Legislative Research Department

Room 545-N - Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

February 28, 1991

To: House Committee on Federal and State Affairs
Re: Subcommittee Report on Initiative and Referendum

The House Subcommittee on Initiative and Referendum recommends that four bills be submitted to the full House Committee on Federal and State Affairs for its consideration: H.C.R. 5003, H.C.R. 5004, and H.C.R. 5005 (each with amendments) and 1 RS 1104. H.C.R. 5003 would authorize direct initiatives for statutes. H.C.R. 5004 would authorize direct initiatives for constitutional amendments. H.C.R. 5005 would authorize contingent referenda. Finally, 1 RS 1104 would authorize a form of indirect initiative (discussed below).

Section I

5004: The Subcommittee recommends the following amendments to H.C.R. 5003 and H.C.R.

1. **Subject Matter.** Certain matters would not be subject to the initiative procedure. In H.C.R. 5003, matters concerning the courts or their jurisdiction or funding or matters prohibited by the *U.S. Constitution* would be excluded from initiative procedures, in addition to matters prohibited by the *Kansas Constitution* and the issues of dedicated revenues or appropriations already contained in the bill.

The same subject matters prohibited from initiative procedures in H.C.R. 5003 are prohibited in H.C.R. 5004 (with the obvious exception of matters prohibited by the *Kansas Constitution*). In addition, it is proposed that constitutional amendments could not be initiated and adopted which would amend provisions regarding initiative or referendum procedures, or the enactment of laws, or which would reapportion, or amend procedures for reapportionment of, legislative, congressional, judicial, or State Board of Education districts. In the introduced version of H.C.R. 5004, there are no restrictions governing subject matter.

Implication. The Subcommittee does not support statutory initiatives which, if approved by the voters, would alter the structure of the courts as this is a subject matter over which legislative jurisdiction is limited. In addition, the Subcommittee believes that constitutional amendments can have significant ramifications and

should be subject to extensive legislative deliberations in those areas which relate to appropriations, dedicated revenues, the judiciary, all procedures involving the enactment of laws and reapportionment matters. The provisions concerning constitutionality in both bills are intended for clarification purposes.

2. **Constitutionality.** The Attorney General would make determinations on the constitutionality of proposed petitions, including the proposed law and proposed ballot summary (H.C.R. 5003) and proposed petitions and constitutional amendments (H.C.R. 5004). As introduced, both bills require the Attorney General to make determinations on the proper form and legality, but not on the constitutionality, of proposed petitions and measures. Moreover, the Subcommittee recommends that clarifying language be added to H.C.R. 5003 to exempt statutory initiatives from the rule of statutory construction.

Implication. The requirement in both bills that the Attorney General consider the constitutionality of proposals should prevent measures from being submitted to voters which are unconstitutional and which would probably be challenged on that basis after having been approved by voters.

3. **Basis for Signature Threshold.** In both bills, the basis for calculating the required number of signatures would be changed from the total vote cast for the office of Governor at the last election for such office to the number of registered voters of the state, as most recently recorded by the Secretary of State.

Implication. The Subcommittee notes that the most recently recorded number of registered voters would guarantee, on a continuous basis, an updated number of such voters, whereas numbers used in conjunction with gubernatorial elections might, on occasion, be several years old.

4. **Geographical Distribution Requirement.** In both bills, geographic distribution criteria would be required for petition signatures. The Subcommittee recommends that not less than 60 percent of the valid signatures on the petition be equally apportioned among residents of each of the congressional districts of Kansas. As introduced, neither bill contains geographic distribution requirements.

Implication. The geographic requirement should prevent more populated parts of the state from exercising influence in the initiative process that might not reflect statewide support.

5. **Time Frame for Circulation of Petitions.** The time frame to be allowed for petition circulation would not exceed 180 days after the Attorney General has made determinations on the form, legality, and constitutionality of petitions. As introduced, both bills provide for a circulation period of 365 days.

Implication. The Subcommittee considers a circulation period of 365 days to be too lengthy. Measures would be more timely to voters if the period is limited to 180 days.

6. **Gubernatorial Veto.** The Subcommittee recommends that statutory initiatives (H.C.R. 5003) be subject to gubernatorial vetoes. As introduced, H.C.R. 5003 contains no provisions for gubernatorial vetoes.

Implication. A gubernatorial veto might provide for some check in the event that a badly flawed measure has been approved through the initiative process.

7. **Approval of a Measure.** The Subcommittee concurs with the provision in H.C.R. 5003 predicating approval of a proposed law upon a vote of a majority of the registered voters who voted for the law. However, the Subcommittee recommends that approval of a constitutional amendment in H.C.R. 5004 be predicated upon the affirmative vote of two-thirds of the registered voters voting upon an amendment. As introduced, H.C.R. 5004 conditions approval of a constitutional amendment upon a vote of a majority of the registered voters who voted on the amendment.

Implication. In light of the long-term ramifications of constitutional amendments, the Subcommittee believes that initiated measures to amend the *Constitution* should not be enacted without strong support from voters and should not be easy to approve.

8. **Amendments and Repeals.** As introduced, H.C.R. 5003 would permit laws enacted by the initiative process to be amended or repealed in the same manner as legislation enacted by the Legislature. The Subcommittee recommends that any such amendment or repeal at the first legislative session following enactment require the affirmative vote of not less than two-thirds of the members then elected (or appointed) and qualified in each house. The Subcommittee's recommendation only pertains to the procedure to be followed during the first legislative session after enactment of a voter initiated law. During subsequent sessions, voter initiated laws would be amended or repealed in the same manner as legislation enacted by the Legislature.

Implication. With respect to statutory initiatives, the Subcommittee believes that voter approval of a measure is an expression of public will which should not be dismissed lightly by allowing the Legislature to easily amend or repeal the law in the ensuing session. However, the Subcommittee recognizes that laws, for various reasons, might require further amendment or even repeal in future years and that, after one year, it becomes difficult to determine if a law was initiated by the voters or enacted by the Legislature.

9. **Reporting Requirements.** The Legislature would be required to provide for reporting of expenditures and contributions made to support or oppose proposed

laws (H.C.R. 5003) or amendments (H.C.R. 5004) submitted to registered voters. As introduced, neither bill contains reporting requirements.

Implication. The Subcommittee recognizes that few restrictions on initiative campaign contributions and expenditures would be constitutional. However, reporting of contributions and expenditures might aid in the detection of any abuses that may occur. Furthermore, the Subcommittee believes that the public has the right to know who is supporting and opposing a measure, as well as the size and source of income for a measure, so that the excessive influence of money on election outcomes can be prevented.

10. **Miscellaneous.** The Subcommittee also notes that a technical amendment is proposed for the explanatory statement in H.C.R. 5003. The Subcommittee further notes that there was considerable discussion about amending the provision in both bills regarding the procedure for submittal of a measure to the voters. Three members, but not the majority of the Subcommittee, recommended that the laws or amendments proposed by three valid petitions with the greatest number of signatures within the prescribed time period would be submitted to the voters.

Section II

The Subcommittee recommends the following amendments to H.C.R. 5005:

1. **Subject Matter.** The Legislature may not refer any statutory measure to registered voters for their approval or rejection if that measure contains more than one subject, dedicates any revenue, makes or repeals any appropriation, adopts emergency measures or relates to matters concerning the courts or their jurisdiction or funding. As introduced, H.C.R. 5005 contains no restrictions on subject matter.

Implication. As introduced, H.C.R. 5003 excludes from voter initiated measures appropriations and dedicated revenues. The Subcommittee concurs with that exclusion because, in its view, voter initiated changes of that nature can have tremendous unanticipated and perhaps unintended implications for state programs and services and should always be subject to legislative debate. Moreover, measures of this kind are most properly legislative functions because the Legislature is structurally organized to take a broad view of the interaction of all state programs and funding sources and, in addition, the voters expect this of the Legislature. For those same reasons, the Subcommittee believes that measures containing the subject matters of appropriations and dedicated revenues should not be referred to voters. Indeed, if the Legislature were given the option to refer such measures, it might not make the necessary effort to tackle very difficult financing issues. With respect to the matters related to the judiciary, the same argument applies to referenda as applies to statutory initiatives. Finally, emergency measures should not be referred to voters because

a delay in implementation of those measures might endanger public health and safety.

2. **Determination on Referrals.** The Subcommittee notes that H.C.R. 5005, as introduced, does not address when a determination must be made concerning submittal of a measure to voters. To that end, the Subcommittee recommends that the introduced version of a bill contain a provision for a legislative measure to be referred to the voters and that this provision not be subject to amendments.

Implication. The Subcommittee believes that legislators need to know from the outset whether a measure is to be referred to the voters. The Legislature's treatment of bills which include this intention from the outset could vary considerably from their treatment of bills which do not contain that provision. For example, without such a provision, the Legislature could amend a bill to refer it to the voters after it has gone through both houses and has reached a deadlock between the houses. Knowledge of the availability of this option might prevent the houses from making a strenuous effort to reconcile their differences and reach agreements on difficult issues.

3. **Time of Election.** A legislative measure must be submitted to the registered voters at the next statewide general election following passage of the bill. As introduced, H.C.R. 5005 provides for the election to be designated in the bill containing the measure which is to be submitted to the voters.

Implication. As introduced, the bill would permit the Legislature to determine the election at which a measure may be submitted. Conceivably, an election may be designated which would delay voter determination for several years. The Subcommittee does not consider this to be the appropriate use of the referendum mechanism, nor would this be in the best interest of the public. Therefore, it is the Subcommittee's position that the time of election be prescribed in H.C.R. 5005.

4. **Amendments and Repeals.** Measures may be amended or repealed by the Legislature at any time. However, any amendment or repeal during the first legislative session following approval by the registered voters would require the affirmative vote of two-thirds of the members then elected (or appointed) and qualified in each house. As introduced, H.C.R. 5005 would permit laws enacted through the referendum process to be amended or repealed in the same manner as legislation enacted by the Legislature. The Subcommittee's recommendation only pertains to the procedure to be followed during the first legislative session after the approval of a referred measure. During subsequent sessions, laws enacted via referenda would be amended or repealed in the same manner as legislation enacted by the Legislature.

Implication. The same justification for Section I (8) applies to this subsection.

5. **Reporting Requirements.** The Legislature would be required to provide for reporting of expenditures and contributions made to support or oppose legislative measures submitted to registered voters. As introduced, this bill contains no reporting requirement.

Implication. The same justification for Section I (9) applies to this subsection.

Section III

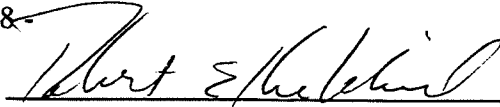
The Subcommittee submits 1 RS 1104 to the Committee for its review. The Subcommittee wishes to emphasize that this draft legislation, unlike the others, is not a resolution and would not be submitted to voters for their approval or rejection. The Subcommittee notes that this draft legislation was, with several amendments, modeled after a bill which is under consideration in the Vermont Legislature. The bill could be considered a variation of an indirect statutory initiative in that citizens may initiate a measure and vote on it. If the measure is approved, it is referred to the Legislature for its review and action. The Legislature may approve the measure, amend the measure, or reject the measure. However, the bill is subject to a roll call vote in both houses, and it is this roll call vote which exacts accountability from the Legislature.

The following major provisions are included in the bill:

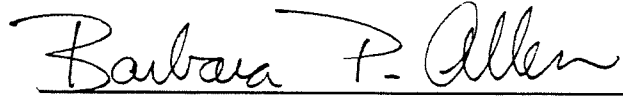
1. Applications to prepare initiative petitions may be filed with the Attorney General during the first five months of an even-numbered year.
2. At least 25 registered state voters must sign the application.
3. The Attorney General must review the proposed legislative measure and approve the form, style, or wording of a proposed measure or description before a petition may be prepared. The Attorney General must also prepare the form of the petition. The bill specifies the format of the petition.
4. The petition must be filed with the Secretary of State on or before September 1 of the year in which the application was filed.
5. The signature threshold is 5 percent of the total number of registered voters of the state, as most recently recorded by the Secretary of State.
6. The Secretary of State must determine signature sufficiency within ten days after filing of the petition. Random sampling is permitted in making that determination. A procedure is specified for addressing deficient valid signatures.
7. The bill specifies the format of ballot questions.
8. The Secretary of State is required to cause the ballot question to be submitted to registered voters at the next statewide general election following filing of the petition.

9. A majority vote of registered voters voting on the measure is a precondition for referral of the measure to the Legislature.
10. Upon commencement of the first regular legislative session following the general election in which the measure was approved by the voters, the Speaker of the House must have the measure introduced without amendment as a bill.
11. Within 20 legislative days after the beginning of the session, the committee of the House of Representatives, to which the bill was referred, must report the bill to the House of Representatives. The House's decision on the bill must be recorded by roll call vote.
12. If the vote of the House is affirmative, the bill is referred to the Senate. The same time frame and procedure for consideration of the bill, as was required for the House, is required for the Senate.
13. The Legislature may amend the bill as it is authorized to do with respect to any other bill, but it may not amend the bill in such a manner as to substantially alter its purpose.
14. Any bill enacted in the manner outlined above is subject to gubernatorial approval or veto.

- 8 -



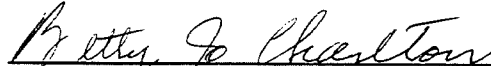
Representative Robert E. Krehbiel
Subcommittee Chairman



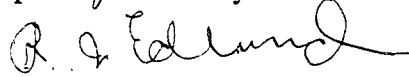
Representative Barbara P. Allen




Representative Jim Cates



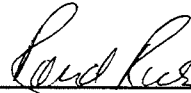
Representative Betty Jo Charlton



Representative Richard J. Edlund



Representative Clyde D. Graeber



Representative Rand Rock

House Concurrent Resolution No. 5003

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 2 of the constitution of the state
9 of Kansas by adding a new section thereto, authorizing initiation
10 and enactment of laws by the registered voters of the state.
11

12 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
13 *of the members elected (or appointed) and qualified to the House*
14 *of Representatives and two-thirds of the members elected (or ap-*
15 *pointed) and qualified to the Senate concurring therein:*

16 Section 1. The following proposition to amend the constitution
17 of the state of Kansas shall be submitted to the qualified electors of
18 the state for their approval or rejection: Article 2 of the constitution
19 of the state of Kansas is hereby amended by adding a new section
20 thereto to read as follows:

21 "§ 1a. Initiative. (a) Notwithstanding the provisions of section
22 1 of article 2, laws may be proposed by petition of registered
23 voters of this state and enacted by the registered voters of the
24 state as provided by this section. No law shall be so proposed or
25 enacted which dedicates any revenue, makes or repeals any ap-
26 propriation or is prohibited by this constitution, nor shall any such
27 law contain more than one subject. The enacting clause of any
28 proposed law submitted to the voters pursuant to this section shall
29 be: "Be it enacted by the People of the State of Kansas:".

30 "(b) Prior to being circulated for signatures, the petition, to-
31 gether with the proposed law and proposed ballot summary, shall
32 be submitted to the office of the attorney general for determi-
33 nations as to proper form and legality. Such determinations shall
34 be rendered in writing within 30 days after submission of the
35 petition. Any person aggrieved by the determinations of the at-
36 torney general may file, within 10 days after the rendering of the
37 determinations, a proceeding in quo warranto with the supreme
38 court.

39 "(c) Each page of a petition initiating a proposed law shall
40 contain the ballot summary and each separately circulated portion
41 of the petition shall contain or have attached thereto the full text
42 of the proposed law. The ballot summary shall be a brief non-
43 technical statement expressing the intent or purpose of the pro-

, relates to matters concerning the courts or
their jurisdiction or funding or is prohibited by
this constitution or the constitution of the
United States

, legality and constitutionality

In determining the constitutionality of the
proposed law, such law shall be strictly construed
so that such proposed law may contain no more than
one subject. The rule of statutory construction
that duly enacted laws of the legislature are
presumed constitutional and that all doubts must
be resolved in favor of their validity need not
apply to the construction of laws initiated under
this section of the constitution.

HCR 5003

2

1 posed law and shall contain language which clearly states that a
2 "yes" vote is a vote in favor of the proposition and a "no" vote
3 is a vote against the proposition. The ballot summary shall not
4 exceed 150 words and shall not reflect partiality in its composition
5 or contain any argument for or against the proposed law.

6 "(d) The petition shall be signed by registered voters equal
7 in number to not less than 5% of the total vote cast for the office
8 of governor at the last election for such office. Petitioners shall
9 file the signed petition in the office of secretary of state not more
10 than 365 days after final determinations as to proper form and
11 legality of the petition. The filing shall be made at one time all
12 in one group. Later or successive filings of documents shall be
13 deemed to be separate petitions and not a part of any other filing.
14 The secretary of state shall have 60 days to determine if the
15 petition contains the requisite number of valid signatures.

16 "(e) If the secretary of state determines that the petition con-
17 tains the requisite number of valid signatures, the secretary of
18 state shall cause the ballot summary to be submitted to the reg-
19 istered voters of the state at the next general election for state
20 representatives held not less than 130 days after the petition is
21 filed, except that no more than three proposed laws shall be
22 submitted under the authority of this section at any one election.
23 If more than three valid petitions are filed within the time pre-
24 scribed by this section, the laws proposed by the three petitions
25 first filed with the secretary of state shall be submitted at the
26 election and the remaining petitions shall be deemed null and
27 void.

28 "Publication and submission of the proposed law shall be in
29 the manner prescribed by law for propositions to amend the con-
30 stitution and the proposed law shall be submitted by the ballot
31 summary. The secretary of state shall cause a copy of the full text
32 of the proposed law to be filed in the office of the county election
33 officer of each county.

34 "(f) If a majority of the registered voters voting on a proposed
35 law vote for the law, the law shall take effect when approved, as
36 determined by the state board of canvassers, unless otherwise
37 prescribed within the law itself. If proposed laws containing con-
38 flicting provisions are approved by the registered voters of the
39 state at the same election, the proposed law receiving the largest
40 number of affirmative votes shall prevail. If such conflicting pro-
41 posed laws receive the same number of affirmative votes, neither
42 proposed law shall become law. If a law, approved by the reg-
43 istered voters through initiative, is in conflict with pre-existing

number of registered voters of the state, as most
recently recorded by the office of secretary of
state. Not less than 60% of the valid signatures
on the petition shall be equally apportioned among
residents of each of the congressional districts
of this state

180

, legality and constitutionality

Within 10 days after certification by the state
board of canvassers that a majority of the voters
voting on a proposed law have voted for such law,
the law shall be signed by the secretary of state
and presented to the governor. If proposed laws
containing conflicting provisions are approved by
the registered voters of the state at the same
election, the proposed law receiving the largest
number of affirmative votes shall be presented to
the governor and the other conflicting proposed
laws shall have no force or affect. If the
governor approves the proposed law presented to
the governor, the governor shall sign it and it
shall become law when signed unless otherwise
prescribed in the law itself. If the governor does
not approve such law, the governor shall veto it
by returning it, with a veto message of the
objections, to the secretary of state. If such law
is not returned within 10 calendar days (excluding
the day presented) after it is presented to the
governor, it shall become a law in the same manner
as if it had been signed by the governor. If a law
enacted under this section

1 law, the pre-existing law shall be effectively amended or repealed.

2 "If a majority of the registered voters voting on a proposed law
3 vote against the law, the proposed law shall have no force or
4 effect and shall not be again proposed by initiative within four
5 years following the date of rejection unless proposed by a petition
6 signed by registered voters equal in number to 25% of the total
7 vote cast for the office of governor at the last election for such
8 office.

9 "(g) [Laws enacted pursuant to this section shall not require
10 the signature of nor be subject to veto by the governor.] The
11 legislature shall retain the power to amend or repeal any law
12 enacted pursuant to this section.

13 "(h) The provisions of this section shall be self-executing, but
14 legislation may be enacted to facilitate its implementation."

15 Sec. 2. The following statement shall be printed on the ballot
16 with the amendment as a whole:

17 "Explanatory statement. This amendment would authorize the
18 voters of the state to propose and adopt laws independent of the
19 legislature.

20 "A vote for the proposition would favor granting to the voters
21 the right to propose and adopt laws independent of the legislature.

22 "A vote against the proposition would retain the power to pro-
23 pose and enact laws in the state legislature without the right of
24 initiative in the voters."

25 Sec. 3. This resolution, if approved by two-thirds of the members
26 elected (or appointed) and qualified to the house of representatives
27 and two-thirds of the members elected (or appointed) and qualified
28 to the senate, shall be entered on the journals, together with the
29 yeas and nays. The secretary of state shall cause this resolution to
30 be published as provided by law and shall cause the proposed amend-
31 ment to be submitted to the electors of the state at a special election,
32 which is hereby called for that purpose, to be held on April 7, 1992,
33 pursuant to section 1 of article 14 of the constitution of the state of
34 Kansas.

, but any amendment or repeal of such a law at the
first legislative session following its enactment
shall require the affirmative vote of not less
than two-thirds of the members then elected (or
appointed) and qualified in each house

The legislature shall provide for reporting of
expenditures and contributions made to support or
oppose proposed laws submitted to the registered
voters pursuant to this section.

The legislature retains the power to amend or
repeal such laws if adopted.

House Concurrent Resolution No. 5004

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 14 of the constitution of the state
9 of Kansas by adding a new section thereto, relating to amendment
10 of the constitution by propositions initiated by registered voters
11 of the state.

12
13 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
14 *of the members elected (or appointed) and qualified to the House*
15 *of Representatives and two-thirds of the members elected (or ap-*
16 *pointed) and qualified to the Senate concurring therein:*

17 Section 1. The following proposition to amend the constitution
18 of the state of Kansas shall be submitted to the qualified electors of
19 the state for their approval or rejection: Article 14 of the constitution
20 of the state of Kansas is amended by adding a new section 3 thereto
21 to read as follows:

22 "§ 3. Initiative of electors. Propositions for the amendment of
23 this constitution may be initiated by petition of registered voters
24 of this state and submitted to the registered voters of the state
25 for their approval or rejection as provided by this section. Such
26 propositions may amend one or more sections within a single
27 article of the constitution as may be necessary to accomplish the
28 objective of the amendment. Each proposition must relate to one
29 subject.

30 "Prior to being circulated for signatures, a petition initiating a
31 proposition to amend the constitution shall be submitted to the
32 office of the attorney general for determinations as to proper form
33 and legality of the proposed amendment. Such determinations
34 shall be rendered in writing within 21 days after submission of
35 the petition. Any person aggrieved by the determinations of the
36 attorney general may file, within 10 days after the rendering of
37 the determinations, a proceeding in quo warranto with the su-
38 preme court.

39 "Each separately circulated portion of the petition shall contain
40 or have attached thereto the full text of the proposed amendment
41 to the constitution. The petition shall be signed by registered
42 voters of the state equal in number to not less than 8% of the
43 total vote cast for the office of governor at the last election for

No amendment to the constitution shall be initiated or adopted pursuant to this section which dedicates any revenue; makes or repeals any appropriation; relates to matters concerning the courts or their jurisdiction or funding; is prohibited by the constitution of the United States; amends provisions regarding enactment of laws, initiation of laws by the voters, or submission of laws to the voters for approval; or reapportions or amends procedures for reapportionment of legislative, congressional, judicial or state board of education districts.

, legality and constitutionality

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such office. Petitioners shall file the signed petition in the office of the secretary of state not more than 365 days after final determinations as to proper form and legality of the petition. The filing shall be made at one time all in one group. Later or successive filings shall be deemed to be separate petitions and not a part of any other filing. The secretary of state shall have 60 days to determine if the petition contains the requisite number of valid signatures.

number of registered voters of the state, as most recently recorded by the office of secretary of state. Not less than 60% of the valid signatures on the petition shall be equally apportioned among residents of each of the congressional districts of this state

180

legality and constitutionality

"If the secretary of state determines that the petition contains the requisite number of valid signatures, the secretary of state shall cause the proposed amendment to be submitted to the registered voters of the state at the next statewide general election held not less than 130 days after the petition is filed, except that not more than three proposed amendments shall be submitted under the authority of this section at any one election. If more than three valid petitions are filed within the time prescribed by this section, the amendments proposed by the three petitions first filed with the secretary of state shall be submitted at the election and the remaining petitions shall be deemed null and void. Publication and submission of the proposed amendment shall be in the manner provided by law for other propositions to amend the constitution and the proposed amendment shall be submitted by the amendment as a whole.

two-thirds

"If a majority of the registered voters voting on the proposed amendment vote for the amendment, the amendment shall become a part of the constitution. If conflicting amendments to the constitution are approved by the registered voters of the state at the same election, the amendment receiving the largest number of affirmative votes shall prevail. If such conflicting amendments receive the same number of affirmative votes, the conflicting amendments shall not become a part of the constitution and shall have no force or effect. If a majority of the registered voters voting on the proposed amendment vote against the amendment, the proposed amendment shall have no force or effect and such amendment shall not again be submitted to the registered voters of the state within four years following the date of rejection.

fewer than two-thirds for

"The provisions of this section shall be self-executing, but legislation may be enacted to facilitate its implementation."

The legislature shall provide for reporting of expenditures and contributions made to support or oppose proposed amendments submitted to the registered voters pursuant to this section.

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. The purpose of this amendment is to authorize proposals for amendment of this constitution to be originated by petition of qualified electors of the state.

1 "A vote for this amendment favors permitting the origination
2 of constitutional amendments by petition of qualified electors.

3 "A vote against this amendment favors the present system of
4 permitting origination of constitutional amendments only by the
5 legislature through concurrent resolution or constitutional
6 convention."

7 Sec. 3. This resolution, if approved by two-thirds of the members
8 elected (or appointed) and qualified to the house of representatives
9 and two-thirds of the members elected (or appointed) and qualified
10 to the senate, shall be entered on the journals, together with the
11 yeas and nays. The secretary of state shall cause this resolution to
12 be published as provided by law and shall cause the proposed amend-
13 ment to be submitted to the electors of the state at a special election,
14 which is hereby called for that purpose, to be held April 7, 1992,
15 pursuant to section 1 of article 14 of the constitution of the state of
16 Kansas.

House Concurrent Resolution No. 5005

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 2 of the constitution of the state
9 of Kansas by adding a new section thereto, authorizing the sub-
10 mission of legislative measures to the registered voters of this
11 state for their approval or rejection.
12

13 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
14 *of the members elected (or appointed) and qualified to the House*
15 *of Representatives and two-thirds of the members elected (or ap-*
16 *pointed) and qualified to the Senate concurring therein:*

17 Section 1. The following proposition to amend the constitution
18 of the state of Kansas shall be submitted to the qualified electors of
19 the state for their approval or rejection: Article 2 of the constitution
20 of the state of Kansas is amended by adding a new section thereto
21 to read as follows:

22 "§ 1b. Referendum. Notwithstanding the provisions of section
23 1 of article 2, the legislature may submit any legislative measure
24 to the registered voters of this state for their approval or rejection
25 in the manner provided by this section. A legislative measure
26 submitted to the registered voters shall be in the form of a bill
27 enacted as other bills are enacted except that passage of the bill
28 shall require the affirmative vote of not less than two-thirds of
29 the members then elected (or appointed) and qualified in each
30 house. The bill shall provide for the legislative measure to be
31 submitted to the registered voters and shall designate the election
32 at which it will be submitted. The secretary of state shall cause
33 the legislative measure to be published in the manner provided
34 by law for propositions to amend this constitution. At the election,
35 the legislative measure shall be submitted to the registered voters
36 by ballot summary or by the legislative measure as a whole, as
37 provided by the bill containing the legislative measure. If sub-
38 mitted by ballot summary, such summary shall be contained in
39 the bill. Not more than three legislative measures shall be sub-
40 mitted under this section at the same election. Legislative meas-
41 ures which have been submitted to and which have received the
42 affirmative vote of a majority of the registered voters voting
43 thereon shall take effect and be in force at a time prescribed

, except that no legislative measure shall be so submitted which contains more than one subject, dedicates any revenue, makes or repeals any appropriation, adopts emergency measures or relates to matters concerning the courts or their jurisdiction or funding

as introduced shall contain a provision

such provision shall not be subject to amendment. The legislative measure shall be submitted to the registered voters at the next statewide general election following passage of the bill

1 therein. Such measures shall not require the signature of nor be
2 subject to veto by the governor but may be amended or repealed
3 by the legislature at any time. Any legislative measure submitted
4 to and rejected by a majority of the registered voters voting
5 thereon shall have no force and effect."

6 Sec. 2. The following statement shall be printed on the ballot
7 with the amendment as a whole:

8 "Explanatory statement. The purpose of this amendment is to
9 authorize the legislature to submit legislative measures to the
10 qualified electors of the state for their approval or rejection. A
11 vote for this proposition favors allowing the legislature to submit
12 legislation to the people for their approval or rejection by election.
13 A vote against this proposition favors the present system of vesting
14 the legislative power of the state in the state legislature and
15 requiring all state laws to be adopted and enacted by the state
16 legislature."

17 Sec. 3. This resolution, if approved by two-thirds of the members
18 elected (or appointed) and qualified to the house of representatives
19 and two-thirds of the members elected (or appointed) and qualified
20 to the senate, shall be entered on the journals, together with the
21 yeas and nays. The secretary of state shall cause this resolution to
22 be published as provided by law and shall cause the proposed amend-
23 ment to be submitted to the electors of the state at a special election,
24 which is hereby called for that purpose, to be held April 7, 1992,
25 pursuant to section 1 of article 14 of the constitution of the state of
26 Kansas.

. Such measures may be amended or repealed by the legislature at any time but any amendment or repeal of such a measure at the first legislative session following its approval by the registered voters shall require the affirmative vote of not less than two-thirds of the members then elected (or appointed) and qualified in each house. Any legislative measure which is submitted to the registered voters and does not receive the affirmative vote of

The legislature shall provide for reporting of expenditures and contributions made to support or oppose legislative measures submitted to the registered voters pursuant to this section.

PROPOSED BILL NO. _____

By

AN ACT

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the Kansas citizen initiative act.

Sec. 2. An application to prepare an initiative petition may be filed with the attorney general at any time on or after January 1 and before June 1 of an even-numbered year. Such application shall be signed by not less than 25 registered voters of this state and shall contain the text of the legislative measure being proposed by the applicants, a proposed concise description of the proposed legislative measure, the names and addresses of the applicants and the name and address of the applicants' designated agent.

(b) Within 14 days after the application is filed, the attorney general shall review the proposed legislative measure and make such nonsubstantive changes as the attorney general deems appropriate; revise, if necessary, the proposed description to assure that it is accurate, fair and impartial; and return the documents to the designated agent. Upon request the attorney general or the attorney general's designee shall meet with the applicants' designated agent within 10 days after return of the documents to attempt to resolve any disagreements about form, style or wording. Within 10 days after return, the applicants' designated agent shall give or withhold the agent's assent to changes made in the proposed legislative measure or description by the attorney general. If the agent withholds assent, a petition shall not be prepared. If the agent assents or no changes are made by the attorney general, a petition shall be prepared under section 3.

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Sec. 3. (a) Within 10 days after assent by the applicants' designated agent to changes of the attorney general or, if no changes are made, within 10 days after return of the documents to the agent, the attorney general shall assign a number to the proposed legislative measure and prepare the form of the petition to be used for such measure.

(b) The petition shall contain on each page a caption describing the subject of the proposed legislative measure, the number assigned to the measure, the description of the measure, the statement of the petition and space for the signatures and addresses of registered voters. Reproduction of the petition shall be the responsibility of the applicants.

(c) The statement of the petition shall be in the following form:

"We, the undersigned, being registered voters in the State of Kansas, request that the following question be placed on the ballot of the general election to be held November ____, ____:

"Shall Proposition ____, relating to {subject}, be brought before the ____ session of the legislature for a recorded vote?"

Sec. 4. (a) The petition shall be filed with the secretary of state on or before September 1 of the year in which the application was filed under section 2.

(b) The petition shall contain signatures of registered voters equal in number to not less than 5% of the total number of registered voters of the state, as most recently recorded by the office of secretary of state.

(c) The secretary of state, within 10 days after filing of the petition, shall determine whether sufficient valid signatures have been submitted to satisfy the requirements of subsection (b). The secretary of state may use a random sampling method in making such determination.

(d) If the secretary of state finds that the number of valid signatures on the petition is insufficient, the secretary of state shall promptly notify the applicants' designated agent, who may request a name-by-name validation until a sufficient number

of valid signatures is found to validate the petition or until it is mathematically impossible for the requirement to be met. The secretary of state shall assess the agent \$0.25 for each name validated under this subsection, whether or not the number of names is found to be sufficient, and may require the posting of adequate surety before undertaking the name-by-name validation.

Sec. 5. (a) Upon determination of the sufficiency of a petition filed under section 4, the secretary of state shall prepare an initiative ballot question for such petition.

(b) The ballot question shall contain a caption identifying the subject of the proposed legislative measure, the number assigned to the measure, the description of the measure as contained in the petition and a question worded to describe the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure.

(c) The secretary of state shall cause the ballot question to be submitted to the registered voters of the state at the next statewide general election following filing of the petition. Notice and submission of the question shall be in the manner provided by law for propositions to amend the constitution.

Sec. 6. (a) If a majority of the registered voters voting on an initiative ballot question vote in favor of the question, the secretary of state shall file the proposition with the clerk of the house of representatives on or before December 31 immediately following the election.

(b) Upon commencement of the first regular legislative session following the general election in which an initiative ballot question is approved by the voters, the speaker of the house shall promptly cause the proposed legislative measure to be introduced without alteration as a bill.

(c) Within 20 legislative days after the beginning of the session, the committee of the house of representatives to which the bill was referred, if any, shall report the bill to the house of representatives. The house of representatives shall proceed promptly to consider the bill and the vote on final passage shall

be by roll call.

(d) If the vote in the house of representatives is in the affirmative, the bill shall forthwith be messaged to the senate. Within 20 legislative days after the bill is received by the senate, the committee of the senate to which the bill was referred, if any, shall report the bill to the senate. The senate shall proceed promptly to consider the bill and the vote on final passage shall be by roll call.

(e) Except as otherwise provided by this section, any bill introduced under this section shall be subject to amendment in the same manner as any other bill, but no amendment shall substantially alter the purpose of the bill.

(f) Any bill enacted pursuant to this section shall be subject to approval or veto by the governor in the same manner as any other bill enacted by the legislature.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

February 11, 1991

To: Federal and State Affairs Subcommittee on Initiative and Referendum

Re: Indirect Initiative in Selected States

Eight states -- Massachusetts, Ohio, Utah, Maine, Nevada, South Dakota, Michigan, and Washington -- employ the indirect initiative, which requires that a measure proposed by petition be submitted to the Legislature upon the filing of a required number of certified signatures. Of these states, only Massachusetts authorizes indirect initiatives for constitutional amendments. All the other states restrict the usage of this mechanism to statutory initiatives. Wyoming's initiative procedure is sometimes considered "indirect," although this is subject to debate.

This memorandum presents a summary of the indirect initiative procedures used in the states of Massachusetts, Ohio, Utah, Maine, and Nevada. States vary with respect to whether indirect initiative procedures are set forth in state constitution or statutes. For example, the constitutions of Massachusetts, Maine, and Nevada address all the procedures for the indirect initiative, as does the constitution of Ohio (with the exception of the Attorney General's certification of petition summaries). In Utah the statutes contain all provisions related to the indirect initiative.

Massachusetts

The indirect initiative pertains in Massachusetts to both statutes and constitutional amendments. There are no provisions for direct initiatives.

An initiative petition signed by ten qualified voters must be submitted to the Attorney General no later than the first Wednesday of August prior to the session during which a measure will be introduced. The Attorney General certifies that the measure and title are in proper form; that the measure is not substantially the same as any other measure which has been qualified and submitted to the people at either of the two preceding biennial state elections; and that the subject matter contained in the measures is not excluded by law from the initiative procedure. (Excluded topics include religion, judicial matters, issues specific to certain subdivisions of the Commonwealth; appropriations, basic constitutional rights; and provisions of the Constitution that prohibit certain matters from the initiative process.)

The Secretary of the Commonwealth provides the petition forms for circulation and signature. Each of those forms includes a summary of the initiative developed by the Attorney General along with the names and addresses of the first ten signers of the petition.

Petitions containing the remaining required signatures must be filed with the Secretary no earlier than the first Wednesday of September nor later than the first Wednesday of December prior to the legislative session during which the measure will be introduced.

The Secretary of the Commonwealth submits the initiative petition with all the signatures to the Legislature at which point the measure is considered introduced. The threshold signature requirement for constitutional amendment initiatives and statutory initiatives is 3 percent of total votes cast for the office of Governor in the last biennial election; no more than 25 percent of the total number of signatures may come from any one county.

Constitutional Amendments. The Legislature can refer an initiated constitutional amendment to the voters; it can amend the proposal; or it can propose a substitute. In any case two successive Legislatures must approve the proposal before it is sent to the voters.

A measure initiated by petition must be approved by one-fourth of the members of two consecutively-elected Legislatures to appear on the ballot. An initiated amendment is approved only if it receives an affirmative vote by voters equal to 30 percent of the total number of ballots cast in the state election and also by a majority of the voters voting on the amendment.

The Legislature may amend a constitutional amendment proposed by initiative through a vote of three-fourths of the members voting on it in a joint session. Before an amended measure can appear on the ballot, final legislative action on the amendment requires the affirmative vote of at least one-fourth of the Legislature meeting in joint sessions in each of two years. Such a measure is approved by a majority of the voters voting on the amendment.

The Legislature also may provide a substitute proposal in competition with or as an alternative for acceptance or rejection by the voters. The substitute version must receive an affirmative vote of a majority of the Legislature meeting in joint session during two consecutive sessions before the measure can appear on the ballot.

A legislative substitute to an initiated amendment is approved only if it receives an affirmative vote by voters equal to 30 percent of the total number of ballots cast in the state election and also by a majority of the voters voting on the amendment.

Statutes. If an initiative petition for a law is introduced with the requisite number of signatures, the Legislature may either pass a law to enact the initiated measure or take no action. The Legislature must act on the measure prior to the first Wednesday of May. If the Legislature enacts the law, the Governor has authority to veto it. If the law is enacted and approved by the Governor prior to the first Wednesday in May, no further action would be forthcoming.

However, if the measure is not enacted prior to the deadline, a petition, with additional signatures, may be filed no later than the first Wednesday of the following July. The number of these signatures must be equal to 1/2 of 1 percent of the entire vote cast for Governor in the preceding biennial state election. If the requisite signatures are collected the measure is submitted to the voters at the next state election. A majority vote causes the measure to be approved provided that this majority is equal to at least 30 percent of all ballots cast at such election.

Ohio

The indirect initiative procedure for statutes requires an initial petition signed by at least 100 qualified electors to be submitted to the Attorney General with a summary of the proposed law. The Attorney General must certify the summary if, in his opinion, it is fair and truthful, and then must file the summary with his certification and the proposed law with the Secretary of State. (Among those topics that cannot be addressed by initiative are laws authorizing classification of property for taxation or authorizing a property tax for land at a different rate than that imposed on improvements on that land.)

After that certification, a petition is circulated to gather signatures equal in number to 3 percent of electors in the State. Half of the 3 percent of the signatures must come from at least one-half of Ohio's counties with each county's requisite number of signatures equal to 1 1/2 percent of the electors in that county. The petition must contain the full text of the proposed law and the signatures must be verified by the County Board of Elections. Petitions must be received by the Secretary of State not less than ten days prior to the opening of the legislative session. The Secretary of State must determine signature sufficiency.

The Secretary of State submits the petition to the Legislature. If the Legislature enacts the measure, as submitted, within four months of receipt, no further action is needed. (The measure is subject to petition referendum.) However, if the Legislature takes no action on the measure, amends the measure, or rejects the measure within four months, a supplementary petition must be submitted to the Secretary of State with additional signatures equal in number to 3 percent of electors.

The supplementary petition must be filed with the Secretary of State within 90 days after the proposed law has been rejected or after four months has elapsed and no action has been taken, or after the law, in amended version, has been passed and has been filed by the Governor with the Secretary of State.

The supplementary petition may contain either the original proposal or a proposal incorporating any amendments of either house or both houses of the Legislature. A measure placed on the ballot by supplementary petition must be rejected by voters before an amended version (if there is one) enacted by the Legislature may be placed on the ballot.

A measure must be approved by a majority of the electors voting thereon. Laws adopted by the voters go into effect 30 days after the election. If conflicting laws are adopted at the same election, the one that received the highest number of votes becomes law. The Governor cannot veto laws approved by the voters.

Utah

Direct and indirect initiatives are authorized in Utah only for statutes and not for constitutional amendments. The *Constitution of Utah* contains only general provisions regarding initiatives. Details of the procedure are included in statute.

Both procedures require an application to be submitted to the Lieutenant Governor for "petition copies." This application must be signed by at least five people who are then designated "sponsors" of the petition.

With respect to the indirect initiative procedure, a petition must be filed with the Lieutenant Governor not less than ten days before the commencement of a regular session of the Legislature. This petition must be signed by legal voters equal in number to 5 percent of all votes cast for Governor in the last general election. This percentage of signatures must come from each of a majority of all of the state's counties. Signatures must be verified by county clerks and signature sufficiency must be determined by the Lieutenant Governor. Petitions which have been verified and certified by the Lieutenant Governor are submitted by the Lieutenant Governor to the Legislature as soon as it convenes.

If the Legislature enacts a law, as proposed by petition, no further action is needed. (The Legislature may not amend the proposed measure but the measure is subject to petition referendum.) However, if the Legislature does not enact the proposed measure, it will be submitted to a vote at the next general election, provided that additional signatures are gathered to bring the total number of signatures up to 10 percent of all votes cast for all candidates for Governor at the last election. The additional 5 percent of required signatures are likewise subject to the verification and certification procedures governing the original signatures.

The indirect initiative procedure is available when petitioners are unable to gather the number of signatures needed to place a proposal directly on the ballot (10 percent of all votes cast for the office of Governor). If petitioners are able to gather a total number of signatures equal to the higher percentage, the petition must be filed with the Lieutenant Governor not less than four months before any general election. Signature verification and certification procedures for direct initiative measures are the same as for indirect initiative measures.

Maine

The only type of initiative authorized in Maine is the indirect statutory initiative. A written application, signed by at least five voters, must be filed with the Secretary of State. A completed petition must be filed with the Secretary of State containing a total number of signatures equal to 10 percent of votes cast for Governor in the last election. Signatures are validated at the local level but the Secretary of State determines signature sufficiency.

The measure is transmitted to the Legislature which can either enact the measure as proposed or submit the proposed measure to voters with an amended version, a substitute version, or other legislative recommendation. In the case of an amended proposition or a substitute, the voters can choose between the two competing measures or reject both. When there are competing

bills and neither receives a majority of the votes, the one receiving the most votes would be placed on the ballot for a second vote, if the measure receives at least one-third of all votes cast for both bills. The election to vote on a measure for the second time must occur not less than 60 days after the measure was considered by voters initially.

The Governor is required to order an initiated proposal that is not enacted by the Legislature to be on the ballot in November of the year the petition is submitted. If the Governor fails to order such a measure to the ballot within ten days of the end of the Session during which the Legislature received the proposal, the Secretary of State is required to do so. The Legislature may call a special election.

Nevada

Nevada authorizes the indirect initiative procedure for statutes and the direct initiative procedure for constitutional amendments. A copy of an initiative petition must be filed with the Secretary of State for review of format before it may be circulated for signatures. Signatures must be verified by county clerks prior to their submittal to the Secretary of State. The Secretary of State must receive the completed initiative petition for a statute not less than 95 days before the commencement of a regular legislative session. The Secretary of State then certifies the petition which must be signed by a number of registered voters at least equal to 10 percent of the voters who voted in the last preceding general election. At least 10 percent of the signatures must come from each of three-quarters of the counties in the state. The Secretary of State is authorized to use statistical sampling procedures for verification purposes. If these procedures are not used, the completed petition must be filed with the Secretary of State 30 days prior to the legislative session.

The Secretary transmits the petition to the Legislature as soon as it convenes and organizes. The petition takes precedence over all measures except appropriations bills. The Legislature has 40 days to enact the measure without change, in which case no further action is necessary. The Legislature may amend the measure and, if approved by the Governor, it becomes law. However, the enacted measure is subject to petition referendum procedures. If the Legislature takes no action within 40 days or rejects the proposed measure, the Secretary of State submits the measure to the voters at the next general election.

If the Legislature rejects a measure, an alternative procedure may be invoked. Upon recommendation of the Governor, the Legislature may propose a different measure on the same subject. This measure must then be approved by the Governor. Under this scenario, both measures (the original one and the legislative version) are placed on the ballot at the next general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters, the measure which receives the largest number of affirmative votes becomes law.