

# **Initiative and Referendum for Alabama: Empower the People**

**Comments by M. Dane Waters, Initiative & Referendum Institute  
Prepared for Auburn University's Simulated Constitutional Convention  
March 6, 2002**

Empower the people. That's the basis of our great nation – all power is derived from the people, not from elected officials or even God himself. The people are sovereign and it is they who should have the power to decide their own fate and the laws under which they live. This is the basis upon which the populists and progressives operated in the late 1800s when they proposed the establishment of the initiative and referendum process.

However, before we get too far along in the discussion of why initiative and referendum are important tools of self-governance, let's understand the terminology.

Anything that appears on the ballot other than a candidate for office is called a ballot measure. Ballot measures are broken down into two distinct groups – initiatives or referendums.

Initiatives are when the citizens, collecting signatures on a petition, place advisory questions, memorials, laws or constitutional amendments on the ballot for the citizens to adopt or reject. This process is commonly referred to as the initiative process and is available in 24 states (see Table One).

In many of the same states, as well as others, the citizens have the ability to reject laws or amendments proposed by the state legislature. This process is commonly referred to as the referendum process. There are two types of referendum in this country — popular and legislative.

Popular referendum, which is available in 24 states (see Table One), is when the people have the power to refer, by collecting signatures on a petition, specific legislation that was enacted by their legislature for the people to either accept or reject.

Legislative referendum, which is possible in all states, is when the state legislature, an elected official, state appointed constitutional revision commission or other government agency or department submits propositions (constitutional amendments, statutes, bond issues, etc.) to the people for their approval or rejection. This is either constitutionally required, as in proposing constitutional amendments, or because the legislature, government official or agency voluntarily chooses to submit the proposal to the people (however, not all states allow their state legislature to place statutes on the ballot for voter approval or rejection). Every state but Delaware requires that constitutional amendments proposed by the legislature be submitted to the citizenry via legislative referendum for approval or rejection.

The initiative process is used much more frequently than the referendum process and is considered by many the more important and powerful of the two processes.

There is no national initiative or referendum process in the United States but the initiative and referendum process is available in thousands of counties, cities and towns across the country and is utilized far more frequently than their statewide counterparts. Almost every major city in the country has this process including New York City, Houston, Philadelphia and New Orleans.

<b>Table One</b>									
<b>States with Direct (DA)<sup>i</sup> and In-direct (IDA)<sup>ii</sup> Initiative Amendments; Direct (DS)<sup>iii</sup> and In-direct (IDS)<sup>iv</sup> Initiative Statutes and Popular (PR)<sup>v</sup> Referendum</b>									
State	Date adopted	Type of process available		Type of Initiative process available		Type of initiative process used to propose Constitutional Amendments		Type of initiative process used to propose States (Laws)	
		Initiative	Popular Referendum	Constitutional Amendment	Statute	Direct (DA)	In-direct (IDA)	Direct (DS)	In-direct (IDS)
AK	1956	Yes	Yes	No	Yes	No	No	No	Yes
AZ	1911	Yes	Yes	Yes	Yes	Yes	No	Yes	No
AR	1910	Yes	Yes	Yes	Yes	Yes	No	Yes	No
CA vii	1911/66	Yes	Yes	Yes	Yes	Yes	No	Yes	No
CO	1912	Yes	Yes	Yes	Yes	Yes	No	Yes	No
FL	1972	Yes	No	Yes	No	Yes	No	No	No
ID	1912	Yes	Yes	No	Yes	No	No	Yes	No
IL viii	1970	Yes	No	Yes	No	Yes	No	No	No
KY	1910	No	Yes	No	No	No	No	No	No
ME	1908	Yes	Yes	No	Yes	No	No	No	Yes
MD	1915	No	Yes	No	No	No	No	No	No
MA	1918	Yes	Yes	Yes	Yes	No	Yes	No	Yes
MI	1908	Yes	Yes	Yes	Yes	Yes	No	No	Yes
MS	1914/92	Yes	No	Yes	No	No	Yes	No	No
MO	1908	Yes	Yes	Yes	Yes	Yes	No	Yes	No
MT ix	1904/72	Yes	Yes	Yes	Yes	Yes	No	Yes	No
NV	1912	Yes	Yes	Yes	Yes	Yes	No	Yes	No
NM	1905	Yes	Yes	Yes	Yes	Yes	No	No	Yes
	1911	No	Yes	No	No	No	No	No	No
	1914	Yes	Yes	Yes	Yes	Yes	No	Yes	No
ND x									
OH	1912	Yes	Yes	Yes	Yes	Yes	No	No	Yes
OK	1907	Yes	Yes	Yes	Yes	Yes	No	Yes	No
OR	1902	Yes	Yes	Yes	Yes	Yes	No	Yes	No
SD xi	1898/72/88	Yes	Yes	Yes	Yes	Yes	No	Yes	No
UT	1900/17	Yes	Yes	No	Yes	No	No	Yes	Yes
WA	1912	Yes	Yes	No	Yes	No	No	Yes	Yes
WY	1968	Yes	Yes	No	Yes	No	No	Yes	No
<b>Totals</b>	<b>27 states</b>	<b>24 states</b>	<b>24 states</b>	<b>18 states</b>	<b>21 states</b>	<b>16 states</b>	<b>2 states</b>	<b>16 states</b>	<b>7 states</b>

i. Direct Initiative amendment (DA) is when constitutional amendments proposed by the people are directly placed on the ballot and then submitted to the people for their approval or rejection.

ii. In-direct Initiative amendment (IDA) is when constitutional amendments proposed by the people must first be submitted to the state legislature during a regular session.

iii. Direct Initiative statute (DS) is when statutes (laws) proposed by the people are directly placed on the ballot and then submitted to the people for their approval or rejection.

iv. In-direct Initiative statute (IDS) is when statutes (laws) proposed by the people must first be submitted to the state legislature during a regular session.

v. Popular Referendum (PR) is the power to refer to the ballot, through a petition, specific legislation that was enacted by the legislature for their approval or rejection.

- vi. This list does not include the states with Legislative Referendum (LR). Legislative Referendum is when a state legislature places an amendment or statute on the ballot for voter approval or rejection. Every state but Delaware requires state constitutional amendments to be placed on the ballot for voter approval or rejection.
- vii. In 1996 California repealed indirect Initiative for statutes.
- viii. In Illinois, the subject matter of proposed constitutional amendment is severely limited to legislative matters. Consequently, Initiatives seldom appear on the ballot.
- ix. In 1972 Montana adopted a provision that allows for directly initiated constitutional amendments.
- x. In North Dakota prior to 1918, constitutional amendments could be initiated only indirectly.
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## **History of the Process**

Initiative and referendum (I&R) has existed in some form in this country since the 1600s. Citizens of New England placed ordinances and other issues on the agenda for discussion and then a vote utilizing town meetings. Thomas Jefferson first proposed Legislative Referendum for the 1775 Virginia State constitution. The basis of his support was simply that, "[t]he people are the only sure reliance for the preservation of our liberty" and that they, the people, should be the ones to agree to and approve any change to the one document that dictated the laws in which they would have to live by.

The first state to hold a statewide Legislative Referendum for its citizens to ratify its constitution was Massachusetts in 1778. New Hampshire followed in 1792. Today, every state but Delaware requires a final vote of the people before their constitution can be amended.

Jefferson was a strong and vocal advocate of the Referendum process, which in his view recognized the people to be the sovereign. Whereas the King of England spoke of his power to govern being derived from God, Jefferson knew that those chosen to represent the citizenry as envisioned in a republican form of government were only empowered by the people. This was the core principal in which our Federal Constitution was based upon.

State constitutions mirror the Federal Constitution. In state constitutions a series of checks-and-balances were created to take into account the possible abuse of power by elected representatives and to protect the people from an out of control government - when and if that were to happen. But what the people began to realize in the late 1800s was that no matter what checks-and-balances existed, the people had no direct ability to reign in an out of touch government or government paralyzed by inaction.

Then came the Populist Party of the 1890s. Their members had become outraged that moneyed special interest groups controlled government, and that the people had no ability to break this control. They soon began to propose a comprehensive platform of political reforms. They advocated women's suffrage, secret ballots, direct election of U.S. Senators, primary elections and the initiative process.

The initiative is based on a theory of trusting the individual. The movement to establish initiative was not intended to change our system of government – but to enhance it. Our Founding Fathers at the federal and state levels created wonderful documents, but they were documents based on compromise. They realized that constitutions would need to be changed which is why they created mechanisms to alter them when necessary. The system of checks and balances that they created were established as a theoretical system based on how to check the power of one branch of government with another – but it was an unproven system. As time progressed, the citizens discovered that this theoretical system of checks and balances worked – but not good enough – for there were times when elected officials chose not to act in the people's best interest. As citizens of this great nation, the Populists and Progressives saw that it was their duty to try and perfect our system of government so that it would accomplish the true intent of our Founding Fathers both at the state and federal level – which was ensuring that the people were the

ultimate sovereigns and that the government was there for the people and not that the people were there for the government. James Madison said it best in Federalist 49 when he stated: "[a]s the people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived, it seems strictly consonant to the republican theory to recur to the same original authority... whenever it may be necessary to enlarge, diminish, or new-model the powers of government."

In 1897, Nebraska became the first state to allow cities to place initiative and referendum in their charters. One year later, the Populists adopted methods from the 1848 Swiss Constitution and successfully amended them into the South Dakota Constitution. On November 5, 1898, South Dakota became the first state to adopt statewide initiative and popular referendum. Oregon followed in 1902 when Oregon voters approved initiative and popular referendum by an 11-to-1 margin. Other states soon followed. In 1906 Montana voters approved an initiative and popular referendum amendment proposed by the state legislature. Oklahoma became the first state to provide for the initiative and popular referendum in its original constitution in 1907. Maine and Michigan passed initiative and popular referendum amendments in 1908.

In 1911 California placed initiative and popular referendum in their constitution. Other states were to follow – but even with popular support in many states, the elected class refused the will of the people and did not enact this popular reform. In Texas, for example, the people actually had the opportunity to vote for initiative and popular referendum in 1914, but voted it down because the amendment proposed by the legislature would have required that signatures be gathered from 20% of the registered voters in the state – a number twice as large as what was required in any other state. The proponents for initiative and popular referendum felt it was more important to get a useable process than one that would have maintained the status quo and provided no benefit to the citizenry. However, the legislature used this defeat as an excuse to claim that the people did not want initiative and popular referendum and therefore effectively killed the movement in Texas.

Eventually, between 1898 and 1918, 24 states adopted initiative or popular referendum – mostly in the West. The expansion of initiative and popular referendum in the West fit more with the Westerners belief of populism – that the people should rule the elected and not allow the elected to rule the people. Unfortunately in the East and South this was not the case. Those that were in power were opposed to the expansion of initiative and popular referendum because they were concerned that blacks and immigrants would use the process to enact reforms that were not consistent with the beliefs of the ruling class.

In 1959, when Alaska became a state, the citizens had adopted the power of initiative and popular referendum. Then in 1972, Floridians adopted statewide initiative. Mississippians in 1992 restored initiative and referendum to their constitution, 70 years after the state Supreme Court invalidated the election creating the process. Mississippi became the newest and last state to get this valuable tool.

**Table Two****Popular Votes on Adopting the Initiative Process**

State	Year	Passed Failed	Margin	Yes	% Yes	No	% No
South Dakota	1898	Passed	3-2	23,816	59%	16,483	41%
Utah	1900	Passed	5-2	19,219	71%	7,786	29%
Oregon	1902	Passed	11-1	62,024	92%	5,688	8%
Illinois <sup>i</sup>	1902	Passed	5-1	428,469	83%	87,654	17%
Missouri	1904	Failed	2-3	115,741	41%	169,281	59%
Nevada <sup>ii</sup>	1905	Passed	5-1	4,393	85%	792	15%
Montana	1906	Passed	5-1	36,374	85%	6,616	15%
Delaware <sup>iii</sup>	1906	Passed	6-1	17,405	89%	2,135	11%
Oklahoma	1907	Passed	5-2	180,333	71%	73,059	29%
Missouri	1908	Passed	1-1	177,615	55%	147,290	45%
Maine	1908	Passed	2-1	51,991	69%	23,712	31%
Michigan <sup>iv,v</sup>	1908	Passed	2-1	244,705	65%	130,783	35%
Illinois <sup>vi</sup>	1910	Passed	3-1	443,505	63%	127,751	37%
Colorado	1910	Passed	3-1	89,141	76%	28,698	24%
Arkansas	1910	Passed	2-1	91,363	70%	39,680	30%
California	1911	Passed	3-1	138,181	75%	44,850	25%
Arizona <sup>vii</sup>	1911	Passed	3-1	12,534	76%	3,920	24%
New Mexico <sup>viii</sup>	1911	Passed	5-2	31,724	70%	13,399	30%
Nebraska <sup>ix</sup>	1912	Passed	13-1	189,200	93%	15,315	7%
Idaho (I)	1912	Passed	8-3	38,918	72%	15,195	28%

Idaho (R)	1912	Passed	3-1	43,658	76%	13,490	24%
Nevada <sup>xi</sup>	1912	Passed	10-1	9,956	91%	1,027	8%
Ohio	1912	Passed	3-2	312,592	57%	231,312	43%
Washington	1912	Passed	5-2	110,110	71%	43,905	29%
Wyoming <sup>xii</sup>	1912	Failed	6-1	20,579	86%	3,446	14%
Mississippi <sup>xiii</sup>	1912	Failed	2-1	25,153	65%	13,383	35%
Michigan (C) <sup>xiv</sup>	1913	Passed	5-4	204,796	56%	162,392	44%
Michigan (S)	1913	Passed	3-2	219,057	59%	152,388	41%
Mississippi <sup>xv</sup>	1914	Passed	2-1	19,118	69%	8,718	31%
North Dakota (C) <sup>xvi</sup>	1914	Passed	2-1	43,111	66%	21,815	44%
North Dakota (S)	1914	Passed	5-2	48,783	71%	19,964	29%
Minnesota <sup>xvii</sup>	1914	Failed	3-1	162,951	77%	47,906	23%
Wisconsin	1914	Failed	2-1	84,934	36%	148,536	64%
Texas <sup>xviii</sup>	1914	Failed	1-1	62,371	48%	66,785	52%
Maryland <sup>xix</sup>	1915	Passed	3-1	33,150	77%	10,022	23%
Minnesota <sup>xx</sup>	1916	Failed	4-1	187,713	78%	51,546	22%
Massachusetts	1918	Passed	1-1	170,646	51%	162,103	49%
North Dakota <sup>xxi</sup>	1918	Passed	3-2	47,447	59%	32,598	41%
Alaska <sup>xxii</sup>	1956	Passed	2-1	17,447	68%	8,180	32%
Florida <sup>xxiii</sup>	1968	Passed	1-1	645,233	55%	518,940	45%
Wyoming	1968	Passed	3-1	72,009	75%	24,299	25%
Illinois <sup>xxiv</sup>	1970	Passed	1-1	1,122,425	57%	838,168	43%
Washington, DC	1977	Passed	4-1	27,094	83%	5,627	17%
Minnesota <sup>xxv</sup>	1980	Failed	1-1	970,407	53%	854,164	47%

Rhode Island <sup>xxvi</sup>	1986	Failed	1-1	129,309	48%	139,294	52%
Mississippi <sup>xxvii</sup>	1992	Passed	3-1	592,536	70%	251,276	30%
Rhode Island <sup>xxviii</sup>	1996	Passed	1-1	165,347	53%	145,808	47%
<b>47 Votes in 32 States and DC</b>		<b>38 Passed</b> <b>9 Failed</b>	<b>2-1</b>	<b>7,944,583</b>	<b>62%</b>	<b>4,937,179</b>	<b>38%</b>

- i. Illinois's 1902 and 1910 votes were advisory—not binding on the legislature. The measures were put on the ballot by petition of I&R advocates, using a statewide non-binding advisory initiative process established by the legislature in 1901. The legislature never followed the people's mandate. A constitutional convention passed a very limited initiative process in 1970, and the voters approved it.
- ii. Nevada's 1905 amendment secured only the Popular Referendum—that is the right to veto by petition and popular vote a law that just passed the legislature. The Initiative—the right to pass new laws by petition and popular vote—was secured by Nevada's 1912 amendment.
- iii. Delaware voted on an advisory referendum put on the ballot by the legislature, asking voters whether they wanted the Initiative process. Their reply was overwhelmingly "yes", as shown here, but the legislature never followed that mandate. Delaware is also the only state that does not require that the people approve all changes to the state constitution.
- iv. The Initiative procedures put in place in Michigan in 1908 proved so difficult that citizens were unable to put initiatives on the ballot. Reformers got the legislature to approve less restrictive procedures, which were placed on the ballot in 1913 and ratified by the voters. There were two separate Initiative amendments on the ballot, one giving voters power to propose and enact Initiative statutes (laws), the other giving voters power to propose and enact Initiative amendments to the state constitution.
- v. Voters in Arizona approved their new constitution, including I&R, in a single vote—the I&R question was not separate, as in most states. The same route to approval of I&R was taken in Alaska, Florida, and (in 1908) Michigan.
- vi. Illinois's 1902 and 1910 votes were advisory—not binding on the legislature. The measures were put on the ballot by petition of I&R advocates, using a statewide non-binding advisory initiative process established by the legislature in 1901. The legislature never followed the people's mandate. A constitutional convention passed the 1970 provision.
- vii. Voters in Arizona approved their new constitution, including I&R, in a single vote—the I&R question was not separate, as in most states. The same route to approval of I&R was taken in Alaska, Florida, and (in 1908) Michigan.
- viii. New Mexico's new constitution—like Arizona's, ratified by the voters in a single vote, not provision by provision—included the Referendum power, but not the initiative.
- ix. Nebraska's 13-1 victory margin for I&R is somewhat misleading, since blank ballots were counted as "yes" votes. The highest actual approval margin for I&R was thus, most likely, Oregon's 11-1.
- x. In Idaho, there were separate amendments for initiative and referendum.
- xi. Nevada's 1905 amendment secured only the Popular Referendum—that is the right to veto by petition and popular vote a law that just passed the legislature. The Initiative—the right to pass new laws by petition and popular vote—was secured by Nevada's 1912 amendment.
- xii. Wyoming's I&R amendment failed because the state constitution required approval by a majority of "all those voting in the election" rather than "those voting on the (I&R) question." The former system in effect counts blank votes as "no" votes—so the I&R amendment would have lost even with 100 percent approval if half the voters ignored the I&R question.
- xiii. Mississippi had the same voter approval requirement as Wyoming—a majority of "all those voting in the election." In 1912, a presidential election year, the "no" vote plus blanks on the I&R question were in the majority. The fact that a two to one majority of those voting on the question favored I&R made no difference. In 1914, however, "no" votes plus blank votes were just shy of a majority—which allowed the I&R amendment to squeak through. Unfortunately, in 1922 the Mississippi Supreme Court overturned the entire statewide initiative

and referendum process on a legal technicality. Mississippi voters didn't get another chance to vote on adopting statewide I&R until 1992, where they again approved the process.

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- xvi. The I&R amendment passed by the legislature in North Dakota, and ratified by the voters in 1914, had such strict procedures that no initiatives qualified for the ballot in the following election, so I&R advocates put an initiative on the 1918 ballot to ease the procedures. Like Michigan, one Initiative amendment applied to statutes (laws) and one applied to the state constitution.
- xvii. Minnesota's I&R amendment failed all three times it was on the ballot because of the "majority of all those voting in the election" requirements—the same rule that had defeated I&R in Wyoming and Mississippi in 1912.
- xviii. In 1914, Texan voters had the opportunity to adopt I&R. The signature requirement was so stringent (20% of the number of ballots cast in the previous election) that many I&R supporters advocated the defeat of the measure, believing they could get the legislature to pass a better more usable version. The voters narrowly defeated the measure—but to this day, Texans are still waiting for the legislature to pass another version.
- xix. Maryland's amendment provided for the right of statewide referendum, but not initiative.
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- xxvi. An amendment establishing statewide I&R was approved in Rhode Island's 1986 Constitutional Convention; but when placed on the ballot, voters very narrowly defeated it. In 1996 the legislature put a non-binding advisory question on the ballot, asking voters if they would like to adopt I&R. Voters said yes, but the legislature ignored them.
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The credit for the establishment of initiative and popular referendum in this country belongs with the Progressives. They worked steadily to dismantle the political machines and bosses that controlled American politics by pushing reforms eliminating the influence the special interest had on political parties and the government. Their goal, as is today's proponents of the initiative and popular referendum, is to ensure that elected officials remain accountable to the electorate.

There is little doubt that in recent years the initiative process has become one of the most important mechanisms for altering and influencing public policy at the local, state and even national level. In the last decade alone, utilizing the initiative process, citizens were heard on affirmative action, educational reform, term limits, tax reform, campaign finance reform, drug policy reform and the environment.

The modern day movement to utilize the initiative process can be said to have begun in 1978 in California with the passage of Proposition 13 that cut property taxes from 2.5 percent of market value to just 1 percent. After Proposition 13 passed in California, similar measures were adopted through the initiative process in Michigan and Massachusetts. Within two years, 43 states had implemented some form of property tax limitation or relief and 15 states lowered their income tax rates.

A report from the National Taxpayers Union makes the case that the tax revolt that began with Proposition 13 in the 1970s would never have occurred without the initiative process. The study's author, Pete Sepp, stated: "[w]ith I&R, citizens have created an innovative, effective array of procedural restraints on the growth of state and local government that have even awakened the federal political establishment. Without I&R, citizens almost certainly would be laboring under a more oppressive and unaccountable fiscal regime than they do today.... As Initiative and Referendum enters its second century of use in the United States, citizens should embrace and nurture this invaluable process. It has transformed the 'Tax Revolt' from a passing fancy to a permanent fixture in American politics."

In addition to the issues discussed above, what has been accomplished through the use of this process? The citizens utilizing the initiative have brought some of the most fundamental and controversial public policy decisions affecting our daily lives about. Here are a few examples:

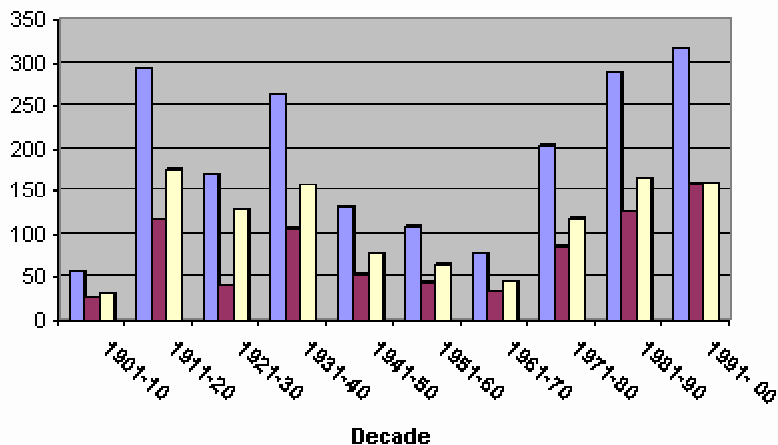
<p style="text-align: center;"><b>Table Three</b></p>
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<p style="text-align: center;"><b>Statewide reforms made possible through the use of the initiative process</b></p>
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Women gained the right to vote	Ended bi-lingual education
Politicians are elected through direct primaries	Movie theatres and other stores can be open on Sunday
Yellow margarine can be sold	Poll taxes were abolished
States can't fund abortions	Parents must be notified prior to the performing of an abortion
The eight-hour workday was created	Medical marijuana was legalized
Physician-assisted suicide was legalized	The use of steel traps in hunting was outlawed
A vote of the people is required before any new tax increases can be adopted	A super-majority vote of both houses of state legislatures is required before any new tax increase can be adopted
Ended the use of racial preferences in government hiring and contracting	Bottle taxes to protect the environment were adopted
Placed term limits on elected officials	Campaign finance reform was adopted
Prohibition was adopted and abolished	The death penalty was adopted and abolished

Clearly, reforms have been enacted that represent different ideologies - conservative, liberal, libertarian and populist agendas. This typifies the initiative process – individuals of all different political persuasions use it. Furthermore, because of the diversity of issues that have been placed on the ballot, voters in states with an initiative on the ballot have been more likely to go to the polls than voters in states without an initiative on the ballot. In election after election, no matter what election cycle is analyzed, voter turnout in states with an initiative on the ballot has been usually 3% to 7% higher than in states without an initiative on the ballot. In 1998 voters in the 16 states with an initiative on the ballot went to the polls at a rate of almost 3% greater than voters in the states without an initiative on the ballot. This can be attributed to the fact the people believe that their vote can make a difference when voting on initiatives. They realize that when they vote for an initiative, they get what they voted for. They get term limits, tax limits, and educational or environmental reform. That is the key distinction between voting on an initiative and voting for a candidate. With a candidate there are no guarantees – you can only hope that the candidate delivers on his or her promises.

**Table Four  
Initiative Usage by Decade**



Since the first statewide initiative on Oregon’s ballot in 1904, citizens in the 24 states with the initiative process have placed approximately 1,987 statewide measures on the ballot and have only adopted 821 (41%). Even though 24 states have the statewide initiative process, almost 60% of all initiative activity has taken place in just five states – Oregon, California, Colorado, North Dakota and Arizona.

Additionally, it is important to point out that very few initiatives actually make it to the ballot. In California, according to political scientist Dave McCuan, only 26% of all initiatives filed have made it to the ballot and only 8% of those filed actually were adopted by the voters. During the 2000 election cycle, over 350 initiatives were filed in the 24 initiative states and 76 made the ballot – about 22%.

**Table Five**

<b>Decades with the lowest number of statewide initiatives on the ballot</b>	<b>Number Proposed</b>	<b>Number Adopted</b>	<b>Passage Rate</b>
<b>1941-1950</b>	131	53	40%
<b>1951-1960</b>	109	44	41%
<b>1961-1970</b>	78	33	42%

The initiative process has been through periods of tremendous use as well as periods in which it was rarely utilized. From 1904 to 1970, the use of the initiative steadily declined from its peak of 291 from 1911-1920 to its low of 78 in 1961-1970.

Many factors contributed to this, but the distraction of two World Wars, the Great Depression and the Korean War are largely responsible. However, in 1978, with the passage of California's Proposition 13 (an initiative that cut state property taxes by nearly 60%), the people began to realize the power of the initiative process once again and its use began to climb. Since 1978, the two most prolific decades of initiative use have occurred 1981-90 (289 initiatives) and 1991- 2000 (396 initiatives).

<b>Table Six</b>			
<b>Decades with the highest number of statewide initiatives on the ballot</b>	<b>Number Proposed</b>	<b>Number Adopted</b>	<b>Passage Rate</b>
<b>1991-2000</b>	396	194	48%
<b>1911-1920</b>	291	117	40%
<b>1981-1990</b>	289	127	44%

In 1996, considered by scholars to be the "high water mark" for the initiative process, the citizens placed 102 initiatives on statewide ballots and adopted 45 (44%). In contrast, that year, state legislatures in those same 24 states adopted over 14,000 laws and resolutions.

<b>Table Seven</b>			
<b>States with the highest number of statewide initiatives on the ballot</b>	<b>Number Proposed</b>	<b>Number Adopted</b>	<b>Passage Rate</b>
<b>Oregon</b>	314	105	33%
<b>California</b>	260	92	35%
<b>Colorado</b>	174	72	41%
<b>North Dakota</b>	165	77	47%
<b>Arizona</b>	144	58	40%

Since 1996, the number of initiatives actually making the ballot seems to be decreasing. In 1998, only 66 statewide initiatives actually made the ballot - the lowest in a decade. In 2000 a total of 76 initiatives (four were on primary ballots and 72 were on the general election ballot) found their way to statewide ballots, though more than 1998, this number is still off pace with previous election cycles in the last decade.

In 2001 there were four initiatives on statewide ballots. The reason for the low number is that the constitutions of only five states allow initiatives in the odd years – Colorado, Maine, Mississippi, Ohio and Washington State.

Based on the number of initiatives being filed as of the writing of this article, it is likely that 50 to 60 initiatives will appear on the 2002 ballot. This drop in the number of initiatives can be attributed to increased judicial action in stopping initiatives on technical grounds, as well the growing cost of utilizing the initiative process. The number of legislative referenda will most likely be consistent with previous election cycles, since the number of issues placed on the ballot by state legislatures has remained fairly constant over the last decade.

However, most of the initiatives that do make their way to state ballots will be those that have the backing of national groups that are providing the primary funding for these issues. As with previous elections over the last decade, fewer and fewer initiatives that are the product of the vision of one individual within the state are making it to the ballot. Instead, more and more often the initiatives appearing on state ballots are the vision of national groups wishing to place their reforms on state ballots all over the country as a way to increase the national debate on these issues, and in hopes of pushing Congress to adopt reforms. Term limits, drug-policy reform, campaign finance reform, animal protection and tax reform are all examples of this trend.

### **The Benefit of I&R for Alabama**

There is no doubt that the citizens of Alabama want I&R. A poll conducted by Portrait of America in early 2000 found that Alabamians want the process by a wide margin. 57% stated that they wanted the I&R process while only 18% said they did not.

With the initiative process, the citizens would have the opportunity to make changes to the state constitution without having to wait for a constitutional convention. The need for another method of amending the state constitution is evidenced by the fact that the Alabama State Legislature waited until the 2000 election to remove from the state constitution the prohibition on interracial marriages. With the initiative process, this prohibition could have been removed years ago.

Additionally, the initiative process would empower the people to adopt laws that for whatever reason the state legislature refused to address – issues like term limits, tax relief, education reform, gambling, civil rights, etc. Without the initiative process, the citizens only option is to try and vote out lawmakers who refuse to address these issues in hopes that the replacement would address the specific issue they wanted addressed. However, the reality is that replacing one legislator – or even a dozen – will not guarantee passage of the reform or even serious consideration of the issue. Additionally, polls have shown that the citizens are loath to replace a lawmaker for failing to deal with one specific issue. For the most part they support the job of their individual lawmaker but are frustrated with the fact that he/she will not deal with that one issue. With the initiative

process the citizens get the best of both worlds – they get to keep the lawmakers they like while getting the issue they want addressed.

Another positive affect of establishing the initiative process is that it will increase voter participation. As stated earlier in this paper, citizens feel more empowered when there is an initiative on the ballot and believe that their vote will actually make a difference. The fact that fewer and fewer people are voting in Alabama is attributed to the fact that they feel that their vote doesn't make a difference – establishing the initiative process will change that.

Lawmakers in the state should trust the citizens and give them a tool that has worked for over 100 years in 24 states. If lawmakers can trust the citizens to elect them into office – why can't they trust them to vote for laws?

In closing, there is no doubt that the initiative process isn't a perfect lawmaking tool – just as the traditional lawmaking process taking place in Montgomery isn't perfect. However, the initiative process will give the citizens more control over their government, greater opportunity to get the reforms they want, and they won't have to wait generations for the opportunity to make changes to their constitution or adopt laws they feel are important.

It is hard to predict if the Alabama state legislature will give the citizens this important tool. Due to the reforms that the citizens have been successful in promoting through the initiative process – reforms that have limited the power of government – state legislators have been hostile to advocating it. This in itself is a perfect example of why we need I&R. I hope that constitutional reformers in the state will realize that I&R is critical to empowering the people and that adding it to the constitution will be the most important reform that they can make.