

**ASSEMBLY CONCURRENT
RESOLUTION No. 199**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 16, 2020

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Proposes constitutional amendment to provide for Statewide initiative and referendum for directing State fiscal restraint.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Article I,
2 paragraph 2 and Article II of the New Jersey Constitution.

3

4 **WHEREAS**, For decades, overall State spending has increased at rates
5 far exceeding the rate of inflation; and

6 **WHEREAS**, For decades, State taxes have increased at rates far
7 exceeding the rate of inflation; and

8 **WHEREAS**, For decades, State-authorized long-term debt has increased
9 at rates far exceeding the rate of inflation; and

10 **WHEREAS**, All experience has shown that legislatures and governors
11 of the past and the present have failed to exercise proper fiscal
12 discipline; and

13 **WHEREAS**, Article 1, paragraph 2 of the Constitution of the State of
14 New Jersey states that, “All political power is inherent in the
15 people;” and

16 **WHEREAS**, It is entirely appropriate for the people, who are
17 responsible for funding State government, to exercise direct power
18 to provide general direction to the Legislature and the Governor
19 concerning matters of fiscal responsibility and restraint; and

20 **WHEREAS**, The super-majority legislative override provisions are
21 intended to provide reasonable checks and balances on the process
22 and to provide legislative flexibility to address emergency situation;
23 now, therefore,

24

25 **BE IT RESOLVED** *by the General Assembly of the State of New*
26 *Jersey (the Senate concurring):*

27

28 1. The following proposed amendment to the Constitution of
29 the State of New Jersey is hereby agreed to:

30

31 **PROPOSED AMENDMENT**

32

33 a. Amend Article I, paragraph 2, to read as follows:

34 2. a. All political power is inherent in the people. Government
35 is instituted for the protection, security, and benefit of the people,
36 and they have the right at all times to alter or reform the same,
37 whenever the public good may require it.

38 b. The people reserve unto themselves the power to recall, after
39 at least one year of service, any elected official in this State or
40 representing this State in the United States Congress. The
41 Legislature shall enact laws to provide for such recall elections.
42 Any such laws shall include a provision that a recall election shall
43 be held upon petition of at least 25% of the registered voters in the
44 electoral district of the official sought to be recalled. If legislation
45 to implement this constitutional amendment is not enacted within

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

one year of the adoption of the amendment, the Secretary of State shall, by regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

c. The people reserve unto themselves the power of initiative and referendum to direct the fiscal policy and decisions of the State by enacting and repealing laws governing certain forms of State spending, appropriations, and taxation as well as the issuance of long-term public debt by approving the same at the polls in a general election.

(cf: Art. I, para. 2, amended effective January 1, 1994)

b. Amend the Title of Article II and insert new Section III to read as follows:

ARTICLE II

ELECTIONS **【AND】**, SUFFRAGE AND INITIATIVE AND REFERENDUM DIRECTING FISCAL RESTRAINT SECTION I

SECTION III

1. (a) An initiative and referendum petition proposing a voter enactment directing fiscal restraint shall be submitted to the voters of the State if the petition is signed by a number of registered voters in each of 14 counties in the State equal to at least 25 percent of the number of voters cast in each such county for the office of Governor in the gubernatorial election preceding certification of the petition for circulation as shall be provided by law.

(b) Before an initiative and referendum petition proposing a voter enactment directing fiscal restraint is submitted to the voters at a general election, petitioners shall file the petition with the Secretary of State not less than 60 days before a general election at which the referendum is identified to be submitted to the voters, and the Secretary of State shall within 30 days after that filing determine and certify whether the petition includes sufficient numbers of signatures of registered voters as required under subparagraph (a) of this paragraph. The Secretary of State may employ such random sampling techniques, meeting ordinary professional standards of statistical reliability, as the Legislature may provide by law or, in the absence of such provision, as the Secretary of State shall find to be effective and convenient. If, on or before the 30th day following the filing, the Secretary of State determines that sufficient numbers of signatures so required to be

1 included on the petition have not been obtained, that petition shall
2 be deemed void and without effect. Otherwise, the petition shall be
3 deemed certified as eligible for submission to the voters at a general
4 election at which the referendum is identified to be submitted to the
5 voters.

6 (c) An initiative petition that is not filed with the Secretary of
7 State as required under subparagraph (b) of this paragraph within
8 such period following the certification thereof for circulation as
9 may be established by law but not less than one year shall be void
10 and without effect.

11 2. An initiative and referendum petition proposing a voter
12 enactment directing fiscal restraint, for any of the following, shall
13 be submitted in such manner and form that the people may vote for
14 or against each enactment separately and distinctly, and shall be
15 deemed enacted hereunder if a public question submitting the same
16 at a general election is approved by the affirmative vote of a
17 majority of the total number of votes cast for and against the same:

18 (a) an enactment that mandates that the current State fiscal year
19 total appropriations amount, including amounts provided in the
20 annual appropriation act and any supplemental appropriation law or
21 other law appropriating money from any source, including
22 appropriations made by means of general language committing
23 funds in an unspecified, conditional or contingent amount for any
24 purpose, be reduced by up to 10 percent of that total, which
25 reduction shall be implemented by elimination or reduction of
26 specific items of appropriation and changes to appropriations made
27 by means of general language committing funds in an unspecified,
28 conditional or contingent amount, which shall be identified by the
29 Governor within 60 days after approval of the enactment by the
30 voters, by the filing of a statement by the Governor with the
31 Secretary of State and each house of the Legislature; provided
32 however, that the enactment is not reconsidered and rejected by the
33 Legislature, within 45 days after the approval of the enactment by
34 the voters, by two-thirds of all the members of each house of the
35 Legislature, the yeas and nays of the members voting on such
36 rejection being entered on the journal of each house;

37 (b) an enactment that mandates that in the current State fiscal
38 year the elimination of a specific item of appropriation or changes
39 to an appropriation made by means of general language committing
40 funds in an unspecified, conditional, or contingent amount for any
41 purpose, that is provided in the annual appropriation act and any
42 supplemental appropriation law or other law appropriating money
43 from any source, which elimination shall take effect on the 60th day
44 after the approval of the enactment by the voters; provided
45 however, that the enactment is not reconsidered and rejected by the
46 Legislature, within 45 days after the approval of the enactment by
47 the voters, by two-thirds of all the members of each house of the
48 Legislature, the yeas and nays of the members voting on such

1 rejection being entered on the journal of each house;

2 (c) an enactment that mandates that total anticipated revenue
3 from State taxes, assessments, enhancements, fees, fines, or
4 surcharges of any manner, enacted by law, be reduced by up to 10
5 percent of that total, which reduction shall be implemented by the
6 Governor within 60 days after approval of the enactment by the
7 voters, by the filing of a statement by the Governor with the
8 Secretary of State and each house of the Legislature; provided
9 however, that the enactment is not reconsidered and rejected by the
10 Legislature, within 45 days after the approval of the enactment by
11 the voters, by two-thirds of all the members of each house of the
12 Legislature, the yeas and nays of the members voting on such
13 rejection being entered on the journal of each house;

14 (d) an enactment that mandates the repeal of a law that imposes
15 a State tax, increases a State tax, or modifies any State tax law
16 policy including but not limited to the authorizing of a State tax
17 credit, deduction, exclusion, exemption, refund, rebate or rate
18 change, which repeal shall take effect on the 45th day after the
19 approval of the enactment by the voters, and which repeal shall be
20 in effect for a period of three tax years, unless the reinstatement of
21 the repealed law or substantially similar law be approved by two-
22 thirds of all the members of each house of the Legislature, the yeas
23 and nays of the members voting on such approval being entered on
24 the journal of each house; and

25 (e) an enactment that mandates that a law authorizing the
26 issuance of any long-term debt by any State statutory entity, other
27 than a law that was approved by the voters pursuant to Article VIII,
28 Section II, paragraph 3 of this Constitution, shall be suspended for a
29 period of one year, which suspension shall take effect on the 45th
30 day after the approval of the enactment by the voters, during which
31 one year period no debt shall be issued under that suspended law;
32 provided however, that no initiative and referendum shall be
33 allowed under this subparagraph if at the time of the enactment of
34 the law authorizing the issuance of any long-term debt by any State
35 statutory entity, the law be approved by two-thirds of all the
36 members of each house of the Legislature, the yeas and nays of the
37 members voting on such approval being entered on the journal of
38 each house, and a statement recording that approval be appended to
39 the bill enacting that law by the presiding officers of each house.

40 3. If, at a general election, a proposed enactment directing
41 fiscal restraint is not approved, neither the proposed enactment, nor
42 a public question concerning the proposed enactment which was the
43 subject of the referendum petition, nor one to effect the same or
44 substantially the same change shall be proposed to the voters before
45 the third general election thereafter.

46 4. (a) Prior to the submission to the voters of a voter
47 enactment directing fiscal restraint by a referendum petition, a party
48 may seek a declaratory judgment of the Supreme Court that the

1 proposed enactment would be invalid under the Constitution or laws
2 of the United States, if the pleading requesting such judgment is
3 filed with the Supreme Court not later than 15 days following the
4 certification of the referendum petition by the Secretary of State
5 pursuant to subparagraph (b) of paragraph 1 of Section III of Article
6 II of this Constitution. Any such action shall be heard and decided,
7 and appropriate relief granted, with all due expedition, but in no
8 case later than 30 days following that submission.

9 (b) No voter enactment directing fiscal restraint submitted to the
10 people by initiative petition and approved by the people shall be
11 held unconstitutional or void on account of the insufficient number
12 of signatures on the petition by which the submission of the same
13 was procured.

14 5. An enactment directing fiscal restraint proposed by an
15 initiative and referendum petition shall begin in the following style:
16 "Be it enacted by the People of the State of New Jersey".

17 6. The Secretary of State shall cause an enactment directing
18 fiscal restraint proposed by an initiative petition to be submitted to
19 the people to be published at least once in one or more newspapers
20 of each county, if any newspaper be published therein, not less than
21 90 days prior to that submission to the people.

22 7. (a) If conflicting enactments directing fiscal restraint in
23 response to initiative petitions and submitted to the voters, are
24 approved at the same election by a majority of the total number of
25 votes cast for and against the same, only the one receiving the
26 highest number of affirmative votes shall be deemed enacted.

27 (b) If there are submitted to the people at the same election
28 enactments directing fiscal restraint proposed by referendum
29 petitions effecting the repeal of an existing law in its entirety and
30 sections or parts of the same law, or laws enacted by the Legislature
31 and the Governor in response to those referendum petitions, and
32 those enactments directing fiscal restraint shall each receive a
33 majority of the votes cast thereon, only the one receiving the
34 greatest number of affirmative votes shall be deemed enacted.

35 8. No enactments directing fiscal restraint proposed by an
36 initiative and referendum petition and approved by the people shall
37 be subject to the veto power of the Governor.

38 9. The filing of an initiative and referendum petition with
39 respect to any law or section or part thereof shall in no way affect
40 the effective date or the implementation of the law.

41 Nothing contained in this section shall be construed as
42 preventing from being submitted to the people at the same election:

43 (a) A referendum question with respect to a law in its entirety
44 and a referendum question with respect to any section or part of the
45 same law; or

46 (b) Two or more referendum questions with respect to different
47 sections or parts of the same law.

1 2. When this proposed amendment to the Constitution is finally
2 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
3 shall be submitted to the people at the next general election
4 occurring more than three months after the final agreement and
5 shall be published at least once in at least one newspaper of each
6 county designated by the President of the Senate, the Speaker of the
7 General Assembly and Secretary of State, not less than three
8 months prior to the general election.

9

10 3. This proposed amendment to the Constitution shall be
11 submitted to the people at that election in the following manner and
12 form:

13 There shall be printed on each official ballot to be used at the
14 general election, the following:

15 a. In every municipality in which voting machines are not used,
16 a legend which shall immediately precede the question as follows:

17 If you favor the proposition printed below make a cross (X), plus
18 (+), or check (✓) in the square opposite the word "Yes." If you are
19 opposed thereto make a cross (X), plus (+) or check (✓) in the
20 square opposite the word "No."

21 b. In every municipality the following question:

	YES	<p>ESTABLISHES AN INITIATIVE AND REFERENDUM PROCESS FOR DIRECT VOTER ENACTMENT OF STATE FISCAL RESTRAINTS</p> <p>Shall the amendment to Article I, paragraph 2 and Article II of the Constitution, agreed to by the Legislature, establishing the process of initiative and referendum for direct voter enactment of State fiscal restraints, be adopted?</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment will establish a direct initiative and referendum process in this State whereby State voters will be able to directly enact laws by majority voter approval through State general election public questions in five specific categories imposing fiscal restraints upon the State Government.</p> <p>Those five categories are: (1) reduction of up to 10 percent of total State appropriations, (2) elimination of specific items of State appropriation, (3) reduction of up to 10 percent of total anticipated State revenue from taxes and all other sources, (4) repeal of any State tax law, and (5) a one year suspension of the issuance any long-term debt by any State statutory entity which debt was not approved by the voters.</p> <p>The Legislature will be able to negate a voter-enacted fiscal restraint only by a recorded two-thirds majority vote of all members of both houses within 45 days of voter approval. The Governor is directed when necessary to implement voter enacted fiscal restraints.</p> <p>A statewide referendum petition will be submitted to the voters if it contains voter signatures in each of at least 14 counties equal to at least 25% of the votes cast for the last gubernatorial election. A petition proposing a voter enactment directing fiscal restraint may contain more than one such enactment, but must allow for a separate and distinct public question to be voted on for each such enactment.</p>

STATEMENT

This concurrent resolution proposes to amend the State Constitution to provide the people of New Jersey with the power of direct initiative and referendum to enact and repeal laws governing certain forms of State spending, appropriations and taxation as well as the issuance of long-term public debt.

This constitutional amendment provides the people of New Jersey with the ability to directly enact and repeal laws by majority voter approval through State general election public questions in five specific categories. Focused on imposing greater fiscal restraints on State government, the five categories, include: (1) reduction of up to 10 percent of total State appropriations, (2) elimination of specific items of State appropriation, (3) reduction of up to 10 percent of total anticipated State revenue from taxes and all other sources, (4) repeal of any State tax law, and (5) a one year suspension of the issuance of any long-term debt by any State statutory entity which debt was not approved by the voters. Under the provisions of the resolution, the Legislature may negate a direct enactment through a recorded two-thirds majority vote of all members in both Houses within 45 days of voter approval. When mandated by a direct vote of the people, the Governor is authorized to implement the provisions of voter enacted fiscal restraints.

A statewide referendum petition will be submitted to the voters if it contains voter signatures in each of at least 14 counties equal to at least 25% of the votes cast for the last gubernatorial election. A limit on the time allowed for collecting the required number of signatures may be established by law, but the limitation cannot be less than one year. A petition proposing a voter enactment directing fiscal restraint may contain more than one such proposed enactment, but it must allow for a separate and distinct public question to be voted on for each such enactment.

Before a petition can be submitted to the voters at a general election, it is to be filed with the Secretary of State, who is to have 60 days to determine whether the petition was signed by a sufficient number of registered voters. The Secretary of State is authorized to make a determination on the basis of a sample of the signatures, chosen in accordance with appropriate random sampling techniques. If, on or before the 30th day after the filing, the Secretary of State determines that a sufficient number of signatures have not been obtained, the petition is deemed void and without effect. Otherwise, the petition is deemed eligible for submission to the voters at a general election.

This constitutional amendment provides that prior to the submission to the voters of a proposed enactment, any party may seek a declaratory judgment from the New Jersey Supreme Court that the proposed enactment would be invalid under the Constitution or laws of the United States.

1 If a law proposed by initiative or referendum petition and
2 submitted to the people is not approved, or a law whose continuance
3 is the subject of a public question submitted to the people in a
4 referendum is not rejected, then neither that law nor public
5 question, or one to effect the same or substantially the same change,
6 may be submitted to the people for approval or rejection, before the
7 third general election thereafter.

8 The constitutional amendment also provides that no law
9 proposed by an initiative or referendum petition and approved by
10 the people may be subject to the veto power of the Governor. It
11 also provides that if conflicting laws proposed by the initiative
12 process are approved by the people at the same election, the one
13 receiving the highest number of affirmative votes will be approved.