

**ASSEMBLY CONCURRENT
RESOLUTION No. 202**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman PARKER SPACE

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.

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4 superseded by any subsequent legislation consistent with this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

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

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

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

17
18 ARTICLE II

19 ELECTIONS ~~AND~~, SUFFRAGE ~~AND~~
20 INITIATIVE AND REFERENDUM DIRECTING FISCAL
21 RESTRAINT

22 SECTION I

23
24 SECTION III

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

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

1 be deemed void and without effect. Otherwise, the petition shall be
2 deemed certified as eligible for submission to the voters at a general
3 election at which the referendum is identified to be submitted to the
4 voters.

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

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

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

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

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

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

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

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

45 4. (a) Prior to the submission to the voters of a voter
46 enactment directing fiscal restraint by a referendum petition, a party
47 may seek a declaratory judgment of the Supreme Court that the
48 proposed enactment would be invalid under the Constitution or laws

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

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

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

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

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

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

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

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

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

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

45 (b) Two or more referendum questions with respect to different
46 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:

22

	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. 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. 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. 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.