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Will Grassroots Democracy Solve the Government Fiscal Crisis?

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WILL GRASSROOTS DEMOCRACY SOLVE THE GOVERNMENT FISCAL CRISIS?

*Julie M. Cheslik**

I. Citizens Are Presently Involved in Fiscal Decision-Making in Chaotic and Ill-Timed Ways	627
II. Challenging Direct Democracy as a Viable Alternative for Municipal Fiscal Decision-Making: Can There Be Too Much Democracy?	629
A. The Most Direct Democracy Is the Worst for Solving Fiscal Crises: Initiative and Referendum	630
B. More Deliberative Methods of Grassroots Democracy Are Better Tools to Solve Municipal Fiscal Crises	633
C. Randomly Selected Participants Improve Deliberative Democracy	635

This Essay is a brief commentary on Patricia E. Salkin and Charles Gottlieb's Article, *Engaging Deliberative Democracy at the Grassroots: Prioritizing the Effects of the Fiscal Crisis in New York at the Local Government Level*.¹ I focus here, as Salkin does,² not on the causes of the present fiscal crises faced by a growing number of states and local governments, but on whether a solution to those financial crises might be found at the grassroots level by engaging citizens in a participatory democratic process.

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1. Patricia E. Salkin & Charles Gottlieb, *Engaging Deliberative Democracy at the Grassroots: Prioritizing the Effects of the Fiscal Crisis in New York at the Local Government Level*, 39 *FORDHAM URB. L.J.* 727 (2012).

2. *See id.* at 755–83 (discussing methods of deliberative democracy). I will refer to the Article as Salkin's throughout this Essay for ease of reference.

I will make three arguments, detailed in the sections that follow, in response to Professor Salkin's intriguing premise that engaging citizens in a grassroots, deliberative, democratic process can lead us out of our fiscal crisis. Generally, there is much to like about deliberative grassroots democracy as a solution to any problem, fiscal or other. In fact, it is the American way. But I am not equally enthusiastic about every method of grassroots democracy promulgated as a solution to a fiscal crisis. In fact, there is much evidence that some methods of grassroots democracy are actually harmful to sound government decision-making, particularly fiscal decision-making.

First, voter education is necessary for a successful experience in deliberative democracy. Salkin's Article shows us that involved citizens can and do have transformative personal experiences as a result of participating in a deliberative, grassroots, democratic process in which they are asked to provide specific solutions or make difficult decisions to resolve problems facing government. In some cases, citizens personally transform from a "read my lips: no new taxes"³ mindset to embrace a more Holmesian⁴ notion that some things are simply worth paying for.⁵ This suggests that voter education is an important part of deliberative democracy.

Second, Salkin is quite correct to note that improvements to the present methods of citizen participation in fiscal matters of local government are warranted.⁶ The present methods of citizen participation in addressing the major issues facing local government are inadequate in several respects, not the least of which is that they are often ill-timed and lacking in dialogue.

Third, at risk of sounding undemocratic, I challenge the notion that more democratic process and participation at the grassroots level leads to better decisions or even better decision-making processes than representative democracy. There is plenty of evidence that

3. The line was famously spoken by President George H.W. Bush in 1988 as he accepted his party's presidential nomination. See *Top 10 Unfortunate Political One-Liners*, TIME, http://www.time.com/time/specials/packages/article/0,28804,1859513_1859526_1859516,00.html (last visited Mar. 11, 2012). The words came back to haunt him when, "[a]s presidents sometimes must, Bush raised taxes. His words were used against him by then-Arkansas Governor Bill Clinton in a devastating attack ad during the 1992 presidential campaign." *Id.*

4. Justice Oliver Wendell Holmes famously stated that taxes are the price we pay for living in civil society. See FELIX FRANKFURTER, MR. JUSTICE HOLMES AND THE SUPREME COURT 71 (2d ed. 1961) (quoting Holmes saying: "I like to pay taxes. With them I buy civilization.").

5. See *infra* p. 637 & n.64.

6. See Salkin & Gottlieb, *supra* note 1, at 755.

more democracy is not necessarily better and that more grassroots participation does not necessarily lead to better or even different outcomes. In fact, one might even suggest that the most direct forms of democracy in use in the United States today—the initiative and the referendum—are complicit in causing or at least contributing to the fiscal crises.⁷ We have long relied on the public hearing and the ballot box as the predominant or only methods of public participation in the political process. Both methods have proven frustrating and of limited value, particularly in fiscal matters where they occur too late in the process to help local governments which are then blindsided by the decisions of a public whose desires they have misread.

I. CITIZENS ARE PRESENTLY INVOLVED IN FISCAL DECISION- MAKING IN CHAOTIC AND ILL-TIMED WAYS

Local governments should improve public participation in fiscal deliberative democracy if for no other reason than to cease being surprised and fiscally devastated by the electorate's decision-making at the ballot box. While it is sometimes the case that ballot box measures are the cause of the government's fiscal distress, it is the element of having to react to these measures, often in a defensive posture, that places state and local governments in difficult positions. State and local governments lurch from election to election wherein the voters deliver surprising and often inconsistent fiscal decisions. Several of Salkin's suggestions, particularly the deliberative polling process, can be effective in assisting local governments to better understand the electorate and to be proactive in fiscal decision-making to stave off the ballot box measures that contribute to the fiscal crises of local governments.⁸

A 2011 ballot measure in Missouri provides a recent example of a local government on the defensive and at risk of ballot box budgeting that threatens dramatic fiscal problems for the local government. In April 2011, residents of both Kansas City, Missouri and St. Louis, Missouri, the two largest metropolitan areas of the state, voted overwhelmingly to retain a one percent earnings tax,⁹ passing on a significant tax cut opportunity and allowing the local governments to retain a significant source of revenue. The tax provides 40% of Kansas City,

7. See *infra* Part II.A.

8. See Salkin & Gottlieb, *supra* note 1, at 771.

9. See, e.g., Jim Salter, *Voters in St. Louis, KC Agree to Keep Earnings Tax*, BLOOMBERG BUSINESSWEEK (Apr. 5, 2011), www.businessweek.com/ap/financialnews/D9MDU2C00.htm.

Missouri's budget and one-third of St. Louis' budget.¹⁰ The decision to retain the tax passed by a three-to-one margin in Kansas City and, in St. Louis, 88% of voters opted to retain the tax.¹¹

The important point to consider in this tale is not that the local governments dodged a bullet in retaining an important source of revenue, but to explore the reason the Kansas City and St. Louis voters were considering retention of the local earnings tax in the first place. In the prior election of November 2010, a statewide ballot initiative, Proposition A, was adopted, which prohibits any new local earnings taxes and requires existing earnings taxes to come up for a vote every five years.¹² Thus, between the two elections, the local governments and their supporters were essentially doing damage control: challenging the legality of Proposition A, speaking out in favor of the retention of the earnings tax, and raising money to educate residents as to the dire fiscal consequences that would result from the loss of the earnings tax as a source of revenue.¹³

There are other reasons for local governments to engage in deliberative democracy with citizens. It is extremely difficult to predict voter outcomes in the current anti-tax, anti-government political climate. More dialogue with citizens creates improved opportunities for education as to local government needs. That education is presently provided as part of the political process, which is heavily influenced by special interest groups and produces erratic, if not illogical, results.

In the November 2011 elections in the Kansas City metropolitan area, for example, 70% of Jackson County, Missouri voters and a majority of Clay County, Missouri voters approved a one-eighth cent sales tax to create a regional zoo district.¹⁴ Some of these voters approved the sales tax for the Kansas City zoo while turning down a school levy.¹⁵ One should not be surprised at the vagaries of local, fiscal decision-making by voters. In 2008, in the height of a fiscal crisis

10. *See id.*

11. *See id.*

12. *See 2010 Ballot Measures*, MISSOURI SECRETARY OF STATE, ROBIN CARNAHAN, <http://www.sos.mo.gov/elections/2010ballot/> (last visited Mar. 11, 2012).

13. Such damage control is costly in terms of time, energy, and money. Both cities launched campaigns with civic supporters raising funds to educate voters on the impact of the loss of the earnings tax. The city attorney of Kansas City filed a lawsuit challenging the constitutionality of Proposition A. *See, e.g.*, Steve Bell, *City Files Suit to Stop E-Tax Vote*, KCUR (Aug. 14, 2010, 2:22 AM), <http://kcur.org/post/city-files-suit-stop-e-tax-vote>.

14. Matt Campbell, *A Big Thumbs-Up*, KANSAS CITY STAR, Nov. 9, 2011, at A1, A15.

15. *Id.* at A15.

that is ongoing, Detroit area voters in three separate counties approved taxes (including a property tax increase) for their zoo.¹⁶ While approving of zoos, voters in the Midwest are gearing up to repeal their state income taxes.¹⁷

The point is not that animals are reliably supported by local voters while school children are not, but rather that there is a significant lack of appreciation by local government leaders of the preferences and mood of the public. Learning those preferences only after the votes are tallied is no way to run a fiscal enterprise. Salkin's Article introduces us to a variety of methods whereby local governments can be informed about public preferences and priorities in the budgetary process and, perhaps more importantly, the public can be educated about the tough task state and local governments face in budgeting and prioritizing among a great number of unmet needs.

II. CHALLENGING DIRECT DEMOCRACY AS A VIABLE ALTERNATIVE FOR MUNICIPAL FISCAL DECISION-MAKING: CAN THERE BE TOO MUCH DEMOCRACY?

Salkin's Article argues that deliberative democracy or participatory government should be explored as an alternative to representative democracy to enable "the public to provide meaningful input and articulate preferences and priorities when it comes to the allocation of limited dollars to support local government service delivery."¹⁸ At its heart, the Article expresses a preference for direct democracy over representative democracy in solving the fiscal crises facing local and state governments.

Presumably, one of the primary goals to be achieved by more direct, grassroots democracy in addressing fiscal crises is to arrive at better, or at least different, solutions to the problem. In addition, participation by the citizenry can be an end in itself in that "being heard" makes citizens happier and builds a better community.¹⁹ As one con-

16. Matt Campbell, *Zoo Tax a Hard Sell, But Not Impossible*, KANSAS CITY STAR, Nov. 1, 2011, at A8.

17. See, e.g., *The Heartland Tax Rebellion*, WALL ST. J., Feb. 8, 2012, at A14.

18. Salkin & Gottlieb, *supra* note 1, at 755.

19. Democratic participation is widely accepted as a good of local government. See, e.g., HANNAH ARENDT, ON REVOLUTION 32 (1963) (describing the content of freedom as "participation in public affairs, or admission to the public realm"). Others have extolled the virtues of yet more local or lower level, sub-local government as an access point for citizen participation. See, e.g., Richard Briffault, "What About the 'Ism'?" *Normative and Formal Concerns in Contemporary Federalism*, 47 VAND. L. REV. 1303, 1313-16 (1994) (describing and summarizing this argument); Heather K.

siders the arguments for greater citizen participation in solving the complex fiscal milieu in which local and state governments find themselves, one should consider whether in fact these are the types of crises that are alleviated by more grassroots input. Without putting too fine a point on it, it is worth asking whether there are better and worse methods of grassroots participation, given the goal of solving a complex problem or, at minimum, educating citizens about the complexities of fiscal problems.

In assessing the various methods described by Salkin—the initiative and referendum, the town hall meeting, participatory budgeting, deliberative polling, consensus conferences, and citizen juries—direct democracy that is “vote centric”²⁰ likely provides no better solutions to fiscal problems than those proffered by elected representatives. “Talk centric”²¹ methods of engaging the citizenry to solve a fiscal crisis may also result in no better solutions, but these methods can achieve those positive externalities that education and participation bring without creating up or down votes that bind government.

A. The Most Direct Democracy Is the Worst for Solving Fiscal Crises: Initiative and Referendum

There is an appeal to the argument that more, and more direct, democracy is better for solving the problems facing governments today, and it might seem undemocratic or un-American to suggest that there is any debate as to whether more democracy and more grassroots democracy at the local level is always better. Yet, there can be too much of a good thing, and too much grassroots democratic governance at the local level has its critics. Indeed, two camps have emerged in the discussion about whether it is true that if a little democracy and grassroots decision-making is good, then more must be better.²² Among those who make studying city governance their life’s

Gerken, *Foreword: Federalism All the Way Down*, 124 HARV. L. REV. 4, 11–12 (2010) (advocating sublocal units as avenues for participation by voices often unheard in state and local government to create local majorities).

20. See Simone Chambers, *Deliberative Democratic Theory*, 6 ANN. REV. POL. SCI. 307, 308 (2003) (describing voting-centric democracy and talk-centric democracy).

21. See *id.*

22. Compare ARENDT, *supra* note 19, and Gerken, *supra* note 19, with Nadav Shoked, *Micro-Localism: The Realities, Benefits, and Pitfalls of Law Going Smaller* (forthcoming 2013) (on file with author) (questioning whether micro-local government reforms, which include direct democracy, can be normatively justified on the typical grounds of efficiency, participation, and community building on which they are promoted).

work, there are some calling for “federalism-all-the-way-down” to the local level,²³ while others point to disadvantages of more direct democracy,²⁴ or at least see that its benefits may be overstated.²⁵

In his Paper *The Architecture of Governance*, Professor Gerald Frug cautions that “belief in democracy is decreasing around the world,” particularly, it seems, in the most democratic countries.²⁶ And why would that not be the case given that governing, even (or maybe especially) at the local level, can be fraught with delay, inefficiency, and conflict arising from interest group politics? As evidence of the declining appeal of democracy as a form of city governance, Frug notes the current appeal of authoritarianism (“In China, they can really get things done”), and privatization (efforts to reduce or limit the role of government in favor of private or quasi-independent actors) in defining the role of democracy in city governance.²⁷

While Frug is critical of the turn away from democracy both because of the weaknesses of authoritarianism and the fragmentation that results from privatization,²⁸ one of his critiques rests on the fragmentation of democratic decision-making that results from *too much* direct democracy.²⁹ To see the hazards of too much direct democracy, one need look no further than the modern paradigms of direct democracy, the initiative and the referenda, and the havoc wreaked in their wake in states like California³⁰ and Oregon.³¹ In California,

23. Gerken, *supra* note 19, at 44–73.

24. See Gerald Frug, *The Architecture of Governance*, UT Law FACULTY COLLOQUIA 6–8 (Oct. 6, 2011), http://www.utexas.edu/law/colloquium/papers-public/2011-2012/10-06-11_Frug_The%20Architecture%20of%20Governance.pdf.

25. See, e.g., Shoked, *supra* note 22 (manuscript at 35).

26. Frug, *supra* note 24, at 2.

27. See *id.*

28. See *id.* at 3.

29. See *id.* It is ironic indeed that one of the negative consequences of too much direct democracy is a desire to give up on democracy altogether—not unlike a child who, after over-indulging in sweets, swears them off entirely.

30. See, e.g., Jessica A. Levinson & Robert M. Stern, *Ballot Box Budgeting in California: The Bane of the Golden State or an Over-Stated Problem?*, 37 HASTINGS CONST. L.Q. 689, 697–98 (2010) (suggesting the initiative process is partially responsible for the current fiscal crisis in California); Frug, *supra* note 24, at 6.

31. Some recent ballot measures in Oregon demonstrate the problems with voter initiatives and the complex legislative and judicial processes needed to correct them. In 2004, Oregon voters adopted Ballot Measure 37, which required either payment of “just compensation” to landowners whose real property values were reduced as a result of land-use regulations, or a waiver of the regulations, even if the regulations did not qualify as a taking. Measure 37 was originally codified as OR. REV. STAT. § 197.352 (2005) but was renamed OR. REV. STAT. § 195.305 in 2007. Also in 2007, the state legislature referred Measure 49 to the voters to reduce and otherwise modify

Frug notes, the initiative and referenda have caused or contributed to the fiscal problems facing state and local governments.³²

For thirty years, popular votes have controlled significant parts of the government agenda. They have, for example, limited the government's ability to raise revenue and, at the same time, mandated that it spend money for specific public purposes. It is no surprise that this simultaneous limit on income and mandate of expenses has created paralysis. *YOU* couldn't operate a business or your own life if you couldn't balance income and expenses.³³

Thus, rather than viewing direct democracy as a *solution* to fiscal crises, one might argue that direct or grassroots democracy, at least as exemplified in its purest form via the initiative and referendum, is a *cause* of fiscal crises facing government.³⁴

There are several factors that make the initiative and the referendum particularly poor tools for sound government decision-making: they are up or down votes and not part of a deliberative process that can lead to negotiation, amendment, and the exchange of information; they can be hijacked by special interest groups who often both draft the language and finance a political campaign to support passage; and they are the result of a secret ballot and therefore, unlike elected officials voting in a representative democracy, the voter is not accountable to others for his vote. In their Article advocating more direct and grassroots democracy, Salkin and Gottlieb note these limitations of the initiative and the referendum and the inherent lack of opportunities for deliberation.³⁵

the remedies available under Ballot Measure 37. *See generally* Edward J. Sullivan & Jennifer M. Brager, *The Augean Stable: Measure 49 and the Herculean Task of Correction an Improvident Initiative Measure in Oregon*, 46 WILLAMETTE L. REV. 577 (2010). Ballot Measure 49 also passed and has been codified as OR. REV. STAT. §§ 195.300–195.336 (2007). Measure 49 was then challenged on various constitutional grounds. On January 12, 2012, in *Bowers v. Whitman*, 664 F.3d 1321, 1329, 1333–34 (9th Cir. 2012), the Ninth Circuit Court of Appeals concluded that the enactment of Measure 49 did not violate plaintiffs' property rights under the takings, due process, and equal protection clauses of the United States Constitution.

32. *See* Frug, *supra* note 24, at 6.

33. *Id.* (emphasis in original).

34. For a critique of the initiative and referenda in the context of local land use decision-making, as opposed to fiscal decision-making, see generally David L. Callies et al., *Ballot Box Zoning: Initiative, Referendum and the Law*, 39 WASH. U. J. URB. & CONTEMP. L. 53 (1991); Aaron J. Reber & Karin Mika, *Democratic Excess in the Use of Zoning Referenda*, 29 URB. LAW. 277 (1997); Daniel P. Selmi, *Reconsidering the Use of Direct Democracy in Making Land Use Decisions*, 19 UCLA J. ENVTL. L. & POL'Y 293 (2002).

35. *See* Salkin & Gottlieb, *supra* note 1, at 783; *see also* Frug, *supra* note 24, at 7. For an example of an initiative that was supported by the private interests who stood

B. More Deliberative Methods of Grassroots Democracy Are Better Tools to Solve Municipal Fiscal Crises

With the initiative and referendum unavailable in New York³⁶ and in recognition of the shortcomings of the public hearing—the predominant method of public participation in town budgeting in New York,³⁷ Salkin suggests other methods of participatory democracy or grassroots democracy as vehicles to engage the citizenry in fiscal problem solving. These vehicles include the town meeting, participatory budgeting, deliberative polling, consensus conferences, and citizen juries.³⁸ Each has been used in some local government process in either the United States or, in the case of participatory budgeting, Canada.³⁹ It is worth exploring whether more deliberative or “talk centric” methods of engaging the citizenry in the fiscal problems facing government are preferable to the vote centric methods discussed and dismissed above.

The New England town meeting is a romantic, nostalgic, Cinderella among proponents of democratic government.⁴⁰

Alexis de Tocqueville wrote that “Town meetings are to liberty what primary schools are to science; they bring it within the people’s reach, they teach men how to use and enjoy it.” Lord Bryce described the town meeting as “the most perfect school of self-government in any modern country.” And Thomas Jefferson concluded that town meetings “have proved themselves the wisest in-

to benefit most, consider Oregon’s experience with Ballot Measure 37. That initiative required either payment of just compensation to landowners whose real property values were reduced as a result of land-use regulations, or, alternatively, a waiver of the regulations. Timber interests in Oregon both worked for the passage of Measure 37 and stood to benefit most from its passage. In fact,

[t]imber interests provided 44% of the overall funding to Measure 37. Of the known Measure 37 claims filed, not one of the timber interests sought less than a 1,000% return on their dollar-for-dollar investment in the campaign. The contributor with the largest total claims, Stimson Lumber Company, gave \$30,000 to the campaign and filed at least \$269 million in Measure 37 claims.

Sullivan & Brager, *supra* note 31, at 586–87.

36. About half the states have either initiative, referendum or both. New York is not one of them. Salkin & Gottlieb, *supra* note 1, at 755.

37. *See id.* at 756 & n.184 (citing a New York statute requiring a public meeting or hearing).

38. *See id.* at 755–83.

39. *See id.*

40. Town hall meetings are both deliberative and decision-making vehicles.

vention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation.”⁴¹

Alas, the town meeting has the same pitfalls as its ugly stepsisters, the initiative and referendum, in failing to produce comprehensive, participatory solutions to governance problems. The town meeting not only fails to achieve better (or even different) solutions than those produced by representative democracy, it also fails to deliver fully on the promise of more citizen participation in decision-making. In *Beyond Adversary Democracy*, Jane J. Mansbridge exposes these failures of fully participatory democracy:

In the late 1960s, every major American city and every rural area to which young people had migrated could claim a host of free schools, food co-ops, law communes, women’s centers, hot lines, and health clinics organized along “participatory” lines. I had been a member of several such groups; in all of them, internal struggles over equality and elitism had left the groups in disarray.⁴²

Mansbridge’s research demonstrates that her personal experience was not unusual; town meetings fail to engage fair and equal representation in the same way that representative democracy fails to do so.⁴³ Some groups were more likely to attend than others, some expressed fear of facing others with whom they had disagreed, and some were intimidated and had not attended a town meeting in ten years.⁴⁴ This led Mansbridge to conclude that New England town meetings are more hospitable to the interests of longtime residents⁴⁵ and to older,⁴⁶ wealthy,⁴⁷ male,⁴⁸ and self-confident people who are normally encouraged to exhibit authority.⁴⁹

Salkin recognizes that citizen participation via the methods she describes is not alone a panacea for solving the fiscal problems facing local governments. Any participatory process can lead to furtherance of the preferences of only a small number of participants.⁵⁰ Because

41. JANE J. MANSBRIDGE, *BEYOND ADVERSARY DEMOCRACY* 41 (1980) (internal citations omitted).

42. *Id.* at vii.

43. *See id.* at 97.

44. *See id.* at 59–71 (describing author’s participation in town meetings in Vermont as research for her book on adversary and unitary democracy).

45. *See id.* at 100–02.

46. *See id.* at 105.

47. *See id.* at 107–10.

48. *See id.* at 105–07.

49. *See id.* at 110–11.

50. *See* Salkin & Gottlieb, *supra* note 1, at 763.

of this fact, one wonders whether more participatory democratic processes yield any better solutions than those that would be produced as a result of representative democratic practices. Mansbridge's research suggests that participatory, direct democratic processes do not lead to different or better solutions largely because the same actors achieve power and authority and are able to drive away newcomers, the weak, and the already underrepresented.⁵¹ Particularly in the participatory budgeting process, Salkin notes that citizen participation can lead to too much focus on individual interests as opposed to the general public good.⁵²

Many commentators have noted the hazard of assuming that promoting democratic participation at the local or sub-local level leads to more or different voices being heard.⁵³ Like Mansfield's research on the town hall meeting, which shows that participatory vehicles to increase democratic participation do not lead to participation by broader categories of underrepresented citizens, a study of Los Angeles neighborhood councils found that most are dominated by homeowners, the well-educated, and well-off, older, white residents.⁵⁴

C. Randomly Selected Participants Improve Deliberative Democracy

The failure of the town meeting to elicit diverse participation suggests that the benefits of more and different voices associated with participatory democracy at the grassroots level may be best achieved when citizens are *randomly* chosen to participate rather than self-selected for participation. Some of the methods presented by Salkin can work in exactly that way. Participatory budgeting processes used in Brazil⁵⁵ and citizen assemblies in Canada⁵⁶ called upon citizens who were randomly selected to learn about the fiscal problems facing the city and then make suggestions as to how to address those fiscal issues.

51. See MANSBRIDGE, *supra* note 41, at 62–63.

52. See Salkin & Gottlieb, *supra* note 1, at 763.

53. See Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503, 506–07 (1997); Clayton P. Gillette, *Bondholders and Financially Stressed Municipalities*, 39 FORDHAM URB. L.J. 639, 660–61 (2012); Shoked, *supra* note 22 (manuscript at 46).

54. See Shoked, *supra* note 22 (manuscript at 56) (citing Juliet Musso et al., *Representing Diversity in Community Governance*, URBAN POLICY BRIEF (2004)).

55. See Salkin & Gottlieb, *supra* note 1, at 761–62.

56. See *id.* at 764–66.

Combining randomly-selected citizen participation with education on the issues has the potential to be the most effective participatory process to achieve all the benefits of hearing from a wide selection of citizens: citizen buy-in that can result from participation, and better informed decisions.⁵⁷ The deliberative polling process can marry random selection of citizen participants with education to determine how the public would vote if the average citizen were well informed.⁵⁸ Thus, deliberative polling prevents the government from being “blindsided” by a surprising and inconsistent public decision at the polls.⁵⁹

Likewise, the citizen jury can bring together randomly selected citizens to learn about and explore budget issues and make recommendations for solutions while achieving the benefits of participation. Salkin’s Article describes the use of citizen juries in the Clinton Administration to examine federal budgetary issues.⁶⁰ One of the benefits of the process is the citizenry’s new appreciation of the complexity of government budgeting decisions and increased respect for government decision-makers.⁶¹ Paying the randomly selected participants in a town hall or citizen jury, just like a courtroom juror would be paid,⁶² better affords poor and underrepresented citizens an equal opportunity to participate.

Citizen jurors in the federal budgeting process decided to raise taxes to pay for programs they valued and to cut programs that have traditionally been protected from cuts by powerful lobbies in the representative democratic process. For example, the citizen jury voted to cut social security, agricultural subsidies, and the defense budget.⁶³ In deciding to raise taxes, citizens were transformed by education and participation in the difficult decision-making and weighing process that is government budgeting. This transformation surprised the citizens themselves. One jury member stated, “Coming into this thing, I never thought I’d make a choice to raise taxes. But I decided to bite

57. *See id.* at 771–73 (noting that 89% of citizen participants in a California deliberative polling effort described it as “extremely valuable”).

58. *See id.* at 772.

59. *See supra* Part I.

60. *See* Salkin & Gottlieb, *supra* note 1, at 777–79.

61. *See id.* at 777 (quoting one jury member who stated, “I’m a lot more aware of how hard it is and I have more respect for the people who have to do it.”).

62. But perhaps payment should be a little higher given the extremely low amounts paid for jury duty in many jurisdictions.

63. *See* Salkin & Gottlieb, *supra* note 1, at 778.

2012]

GRASSROOTS DEMOCRACY

637

the bullet. Our kids have to live with what we've done in this country."⁶⁴

64. *Id.* (quoting William Claiborne, *Citizen Jury Demands Strong Action on Budget; Clinton Urged to 'Make The Tough Choices'*, WASH. POST, Jan. 21, 1993, at A12 (internal quotation marks omitted)).