



League of Women Voters of Minnesota Records

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THE LEAGUE OF WOMEN VOTERS

MINNESOTA

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Testimony on H.F.484, S.F. 678

Senate Election Laws Committee

March 8, 2000

Presented by Jane McWilliams, Action Co-chair

The League of Women Voters of Minnesota has a long-standing position in opposition to initiative and referendum. Nothing has happened since our statewide study several years ago to change our position. We oppose the proposed amendment in its entirety.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well-deserved reputation nationally for an open government, and enlightened public policy made by equally enlightened public policy makers.

League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. There our elected representatives, reflecting a wide range of political views can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises where differences exist. Rare is the citizen, regardless of how conscientious and deliberative, who has access to as much information and as many viewpoints as the members of our legislature. Without the due deliberation of the legislative process often bad public policy can result.

A recent example of initiative and referendum gone wrong occurred in Washington State last year. In November voters approved a proposition that removed the Motor Vehicle Excise Tax (an amount of \$750 million in tax revenues) and stipulated that no new tax could be enacted to replace it. Until 1998, when it became dedicated for roads, ferries, mass transit and other transportation needs, revenues from the vehicle excise tax went into the general fund. In addition in 1998 the Sales Tax Equalization Fund established in 1972 for promotion of public health was rolled into this dedicated fund. When the Motor Vehicle Excise Tax was abolished, the sales tax equalization was lost as well.

The State of Washington is reeling financially as a result. Monies must be taken from education and other high state priorities to fund roadbuilding, public transportation and to subsidize the health needs of the poorer counties.

At the time of the November referendum, voters assumed that the legislature could fix any spending shortfalls, that there was plenty of money. Now voters are saying "We didn't know!" Apparently, no one told voters about the public health consequences although the proposition did receive widespread publicity in the media. Voters just grabbed at a good sounding proposal without doing their homework.

To complicate matters further, in 1993 voters placed a spending cap on the legislature in Washington State. No new funding can be enacted without approval from a majority of voters and a 2/3 vote of each house of the legislature. The irony is that there are huge surpluses in Washington, which cannot be spent.

Cautionary tales like this can be told about other states, which have initiative and referendum on the books. While some may think citizen initiated laws are "democratic," the reality of multiple ballot initiatives is troubling.

The League believes the public already has ample opportunity to be involved in developing policy. We elect and/or reject our legislators at the ballot box in order to assure accountability. Biennial election of House members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

The system at the Capitol is open to all. Citizens may testify at hearings, call legislators, write letters send e-mails and take advantage of legislators' visits to their districts in order to express their views. They are perfectly free at any time to contact legislators with ideas for needed legislation. In these many ways, citizens' concerns can be communicated to legislators and where appropriate, policy enactment or change can be initiated and subject to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply here as for creating statutes. Citizens have an opportunity to review legislative proposals for amendments by the same means as with statutes.

As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well informed and active citizens can and have chosen wisely the people who can and will devote time and energy to lawmaking on their behalf. We urge you to defeat this proposal.



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550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

Testimony on H.F.484
House Committee on Governmental Operations & Veterans Affairs Policy
February 24, 1999

Mr. Chair and Members of the Committee my name is Jane McWilliams. I am a volunteer lobbyist for the League of Women Voters of Minnesota. The League has a long-standing interest in initiative and referendum. Following a study by our members 15 years ago, we took a position in opposition to these ways of enacting laws and/or amending the Constitution. Nothing has happened since our state-wide study and consensus to change our position. We oppose all four components in H.F.484.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well deserved reputation nationally for an open government, enlightened public policy made by equally enlightened public policy makers.

League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. There our elected representatives, reflecting a wide range of political views can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises. No citizen, regardless of how conscientious and deliberative, has access to as much information and viewpoints as the members of our legislature. Initiating or repealing statutes by the method designed in H.F. 484 would bypass the kind of scrutiny an enlightened legislature like ours in Minnesota gives lawmaking.

Furthermore, the League believes the public has ample opportunity to be involved in developing policy. First of all, we elect and unelect our legislators at the ballot box in order to assure representativeness. Biennial election of house members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

Second the system here at the Capitol is open to all. Likely, no government in the nation is as accessible as ours. Citizens may provide input at hearings like the one today, call legislators, write letters and take advantage of legislators' visits to their districts in order to have their views known. In these many ways, citizens' concerns may be communicated to legislators and where appropriate, policy enactment or change can be initiated and subject to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply here as to creating legislative policy. Citizens have an opportunity to review legislative proposals for amendments just as we are doing today.

We note with interest that although the percentages of petitioners are higher for amendments than for simple statutes, the simple majority of those voting on the question is a reduction of the present majority of those voting in the election required for passage of an amendment. Do the proponents of this amendment want to endorse a smaller majority passage for initiative amendments as opposed to those initiated by the legislature?

As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well informed and active citizens can and have chosen wisely the people who can and will devote time and energy to lawmaking in their behalf. We urge you to defeat this proposal.

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As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well informed and active citizens can and have chosen wisely the people who can and will devote time and energy to lawmaking in their behalf. We urge you to defeat this proposal.

ACTION



**THE LEAGUE
OF WOMEN VOTERS**
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TO; SELECTED LOCAL LEAGUES

FROM: CAROL FRISCH, ACTION CHAIR

RE: INITIATIVE AND REFERENDUM

DATE: MARCH 25, 1999

A proposed constitutional amendment to place Initiative and Referendum on the Ballot in the 2000 general election passed the House on Monday. A companion bill authored by Sen. Terwilliger (R-Edina) is expected to be heard in the Senate Election Laws Committee the week of March 29. Your senator is among those listed on the committee. We are asking that you contact the senator immediately and express the League's opposition to this proposed amendment.

Enclosed is a copy of the League's letter to House members which will give some background for your contacts. Here are some quick talking points:

- Initiative and referendum has only been passed by 5 states since 1919 and has failed to pass muster in Minnesota three times as a constitutional amendment. The last attempt was in 1980.
- Historically I & R was introduced early in the century to correct the evils of corruption and bribery, political machines and to advance the cause of populism in the face of domination by big-moneyed interests. Minnesota has the most advanced campaign finance laws and scrutiny of lobbying in addition to gift ban provisions in the nation. To establish initiative and referendum now would put big money back in control of issues since there can be no regulation of spending on issue campaigns. The Supreme Court has ruled that this is a free speech issue.
- Direct democracy (I&R) encourages conflict and competition and attempts to expand the base of participants. Indirect democracy encourages stability, consensus and compromise and seeks institutional arrangements that insulate fundamental principles from momentary passions or fluctuations in opinion.
- Initiatives have threatened the rights of minorities in several states. There is no protection from the "tyranny of the majority."

**PLEASE CONTACT YOUR SENATOR NOW AND ASK THAT THE PROPOSED
AMENDMENT SF678 NOT BE PASSED OUT OF THE SENATE ELECTION LAWS
COMMITTEE.**

1919

A VOICE

FOR CITIZENS,

A FORCE

FOR CHANGE

1994

Senator Roy Terwilliger, author, Edina

Senate Election Laws Committee:

John Marty, Roseville, chair

Ember Junge, New Hope, vice chair

Mark Ourada, Buffalo, ranking minority member

Carol Flynn, Mpls.

Dennis Frederickson, New Ulm

Dean E. Johnson, Willmar

Douglas J. Johnson, Tower

Cal Larson, Fergus Falls

Roger Moe, Erskine

Dallas Sams, Staples

Linda Scheid, Brooklyn Park



FACTS and ISSUES INITIATIVE, REFERENDUM and RECALL

League of Women Voters of Minnesota

January, 1980

Direct Democracy: Choices for Minnesota

When Californians emerged from their voting booths in 1978 with a clear-cut victory for Proposition 13, suddenly "initiative" and "referendum" became household words. Interest in these measures surfaced in Minnesota during the 1978 political campaigns, in which both major candidates for governor supported the concepts.

These procedures are sometimes referred to as "direct legislation" because they give the voters the power to affect legislation directly — either by enactment of laws (initiative) or by repeal of laws already enacted by the governing body (referendum). Though public opinion polls indicate popular support for the idea of "direct democracy," widespread understanding of these concepts seems to be lacking. A third measure, closely associated with them, the recall, shares the same problem.

This publication will discuss **state-level** initiative, referendum and recall by defining the terms, reviewing their history, describing procedural details, and relating the pros and cons.

HISTORY

The enactment of laws by popular vote can be traced back as far as the ancient Greek city-states, where each free male citizen took a direct part in making laws. The Roman republic held plebiscites (literally, decrees of the common people) among the lower class *pelbelans* to determine public opinion on critical issues.

Switzerland has used the referendum in some cantons (political divisions corresponding to states) since the sixteenth century. Hitler and many other dictators used referenda to legitimize their regimes and decisions. Except for Switzerland, Australia, and some western states in the U.S., democracies seldom use referendum. In colonial times in the United States, the "whole body of free men" affirmed or rejected laws made by governing bodies. The New England-type town meetings still survive in some places but are not feasible for larger political entities.

One of the most marked features of the evolution of government in the United States was popular dissatisfaction with state legislatures during the late nineteenth century. The Populist movement in the 1890s was a coalition of agrarian protesters who wanted national regulation to solve agricultural problems. Among their demands were political reforms, such as initiative and referendum, to strengthen political democracy. The Progressive movement, which followed the Populist, was set off by two specific circumstances — the agrarian failure of the early 1890s and the depression of 1893. Reformers demanded that the national government play a direct part in combating the exploitation of the common

DEFINITIONS

INITIATIVE

Initiative is a process whereby a certain percentage of the voters signs a petition to have a law (statutory initiative) or a constitutional amendment (constitutional initiative) placed on the ballot for approval or rejection by the voters. There are three types: direct, indirect and advisory.

In the **direct initiative**, once the necessary signatures have been obtained, the proposed law or amendment is placed on the ballot, bypassing the legislative process. In the **indirect initiative**, the completed petition is submitted to the legislature, which then must enact the proposed measure or one substantially similar. If the legislature fails to act within a set time, the question is put on the ballot. The **advisory initiative** is used as a nonbinding reflection of public opinion.

REFERENDUM

Referendum, sometimes called a plebiscite, is a process which allows the voters to accept or reject a statute or constitutional amendment passed by the legislature. There are four types: petition, optional, compulsory and advisory.

The **petition referendum** may be used when a state's constitution provides that laws passed, except emergency measures, will not go into effect for a specified period, usually 90 days. During this time, petitions may be circulated calling for the law to be referred to the people at a special election or at the next general election. If the required signatures are obtained, the law is held in abeyance pending the outcome of the election. An **optional referendum** allows a legislature to call for a referendum on any measure it has passed. The **compulsory referendum** is required by some state constitutions. Certain types of legislation, such as constitutional amendments, levying of taxes, bond issues, moving state or county capitals, must be referred to the people. The **advisory referendum** is like the advisory initiative except measures are proposed by the governmental body.

RECALL

Recall is a process whereby the voters can remove a governmental official from office. Petitions signed by a specific percentage of the voters must state the charges against the officeholder, who then may vacate the office "voluntarily." Should he or she fail to do so, then a formal recall election is held.

TABLE — TYPES OF INITIATIVE, REFERENDUM AND RECALL IN THE U.S.

Recall of Elected Officials (13)	Constitutional Amendment by Initiative (14)	Statutory Initiative		Statutory Referendum		
		Direct (19)	Indirect (8)	Petition (24)	Optional (19)	Compulsory** (21)
Alaska	Florida	Alaska	Maine	Alaska	Arizona	California
Arizona	Illinois	Arizona	Massachusetts	Arizona	Colorado	Florida
California	Michigan	California	Michigan	Arkansas	Georgia	Georgia
Colorado	Ohio	Colorado	Nevada	California	Illinois	Iowa
Idaho	Missouri	Colorado	Ohio	Colorado	Maine	Kansas
Kansas*	Nebraska	Florida	South Dakota	Idaho	Maryland	Kentucky
Louisiana*	North Dakota	Idaho	Utah	Kentucky	Michigan	Maine
Michigan	Nebraska	Illinois	Washington	Maine	Missouri	Michigan
Nevada*	Oklahoma	Missouri		Maryland	Montana	Minnesota
North Dakota	Arizona	Montana		Massachusetts	New Hampshire	New Jersey
Oregon*	California	Nebraska		Michigan	New York	New Mexico
Washington	Nevada	North Dakota		Missouri	North Carolina	North Carolina
Wisconsin	Oregon	Ohio		Montana	Oklahoma	Oklahoma
		Oklahoma		Nebraska	Oregon	Pennsylvania
		Oregon		Nevada	South Carolina	Rhode Island
		Utah		North Dakota	Virginia	South Carolina
		Washington		Ohio	Virginia	Virginia
		Wyoming		Oklahoma	Washington	Washington
		D.C.		Oregon	Wisconsin	Wisconsin
				South Dakota	Utah	Wyoming
				Utah	Washington	
				Washington	Wyoming	
				D.C.		

*These states provide recall for appointed officials too.

**Other than constitutional amendments. The remaining type, compulsory referendum on constitutional amendments, is used by all states except Delaware. Most states allow passage of amendments by a simple vote on the question, but in addition, to Minnesota, Tennessee and Wyoming require a majority of votes cast in the election.

people by industrialists, monopolists and political machines. They argued that injustice could be remedied by giving power to the people, by letting them legislate directly rather than indirectly.

In 1898 South Dakota became the first state to adopt initiative and referendum. Initiative and referendum amendments have been twice defeated in Minnesota. In 1914 and again in 1916, the Legislature submitted a constitutional amendment calling for the adoption of initiative and referendum. While those voting on the question overwhelmingly favored it both times, not everyone voted on the question. Consequently, those who approved the question were not a majority of those voting in the election, as required by the Minnesota Constitution to pass a constitutional amendment.

By 1914, 19 more states (mostly west of the Mississippi River) had adopted the use of initiative and referendum. Recently three states have added initiative and referendum to their constitutions — Wyoming in 1968, Illinois in 1970, and Florida in 1972. The District of Columbia added initiative in 1977.

In the U.S., recall of public officials made its first statewide appearance in Oregon in 1908, followed by California in 1911, where the issue of recalling judges stirred severe controversy. Some called it "reform gone mad." However, voters instituted recall by a three-to-one margin.

By 1915, 11 other states had adopted recall, although it has been invoked statewide only occasionally. In Oregon, two public utilities commissioners have been recalled; and in North Dakota, a governor and two state officials. On the local level, mayors have been recalled in Los Angeles, Seattle and Detroit. Recently a municipal judge was recalled in Wisconsin. Judges were specifically exempted in three states, and Kansas restricts recall to appointed officials only.

Initiative, referendum and recall can be provided for in a state's constitution — the basic document adopted by the people of a state — or by state statutes passed by the legislature. The accompanying table shows the options

available to citizens in those states which use these methods of direct democracy.

BACKGROUND — MINNESOTA LAW

The processes of initiative, referendum and recall are available to some citizens in Minnesota on the local level, provided in various forms by the charters of 74 home rule cities. However, on the state level the only process presently available to citizens is that of compulsory constitutional referendum.

Initiation of amendments to the Minnesota Constitution can be by either house of the Legislature. Such amendments need to be considered by only one session of the Legislature. Both houses must pass any amendments, which then appear on the ballot. In order for a proposed amendment to pass, it must be approved by a majority of those voting in the election.

Minnesotans may not call a special election under the Constitution to vote on a proposed amendment. All proposed amendments are submitted at the next general election.

Although Minnesota has no provision which would allow the voters to end the terms of state office holders, the Constitution does provide a means for the Legislature to do so. Each house may expel one of its members by concurrence of two-thirds of the membership and, in fact, used this mechanism in 1979. In addition, the Legislature has impeachment powers similar to those of the U.S. Congress.

Initiative, Referendum and Recall Bills in the 1979 Legislative Session

Several initiative and referendum bills were introduced both in the House and Senate. The first committee to hear testimony was the Senate Judiciary Committee, chaired by

Senator Jack Davies (DFL-Minneapolis) on March 28. Groups testifying in support of initiative and referendum included the Minnesota Public Interest Research Group, Concerned Taxpayers of Minnesota, Save Lake Superior, Minnesota Real Estate Taxpayers Association, American Association of Retired Persons, Bloomington Senior Citizens, Duluth Home Owners Association, and Minneapolis Neighborhood Improvement Association. On April 4, 1979, opponents testified against initiative and referendum, including the Citizens League, AFL-CIO, Minneapolis Urban Coalition, Minnesota Soft Drink Association, and the Minnesota Education Association.

Discussion of the several Senate bills continued on April 8th. At that time, the committee decided to hold over any action on the bills until the next session. A motion by Senator Dieterich (DFL-St. Paul) was approved which set up interim hearings to look more carefully at SF 599 (McCutcheon, Gearty, Coleman, Strand, Ashbach) and SF 1018 (Chmielewski, Knutson, Rued, Bang — known as the Governor's Bill). SF 599 calls for a constitutional amendment to provide for a form of indirect initiative, giving the Legislature the first option to approve petitioned legislation before it is submitted to the people. SF 1018 calls for direct initiative, sending petitioned legislation directly to the voters.

No interim hearings were scheduled on the initiative and referendum bills introduced in the House. HF 512, introduced by Rep. John T. Clawson (DFL-Center City) provides for the recall of any elective officer. This bill states that recall would be initiated by petition signed by eligible voters. The number of signatures required would be at least 25 percent of the vote cast in the last election for the office from which the officer is to be recalled. No officer could be recalled before one year of service had been completed. A special election would be held, and the officer to be recalled could be a candidate unless he/she chose to resign. The bill remained in the Committee on General Legislation and Veterans Affairs without hearing.

THE INITIATIVE PROCESS

Procedure for Initiative

The initiative process begins with a group of citizens who wish to propose a law or a constitutional amendment. The group decides on the wording and scope of the initiative. It may be an already organized group (such as the League of Women Voters), or it may assemble only for the purpose of drafting the proposed initiative.

An initiative, whether statutory or constitutional, is subject to various procedures and limitations. The following information applies to both direct and indirect forms, although the actual requirements from state to state may differ for the two forms.

Limitations as to Subject Matter

The sponsoring group may find itself under some restrictions as to the subjects it can address. Eleven states allow initiatives on any subject; 13 states have some type of limitation on subject matter. Eight states prohibit proposals about appropriations. Missouri specifies that an initiative cannot appropriate money unless new revenues are also created. Seven states limit initiatives to the same subjects permitted the Legislature by state constitution. Three states prohibit initiatives on taxes. Others exclude matters pertaining to the judiciary, religion and special or local legislation. Two states require each initiative to deal only with a single issue. Several states forbid recon-

sideration of measures initiated and rejected by the voters within the previous three years.

Precirculation Requirements

Various states have certain precirculation requirements, steps that must be followed before petitions are circulated for signing. Generally they require sponsors to file an application containing the text of the proposed measure and a certain number of signatures, ranging from a low of one in Maine to a high of 100 in Alaska and Wyoming. This procedure allows the state to determine that the same measure or one similar to it has not been recently submitted to the voters; Massachusetts attempts to limit the expense of frequent duplications of effort in this manner. Another reason for such precirculation requirements is to limit the amount of time allowed for gaining signatures; the intent is to ensure active support for the proposal.

Preliminary Review

In Massachusetts and California, which require a preliminary review before circulation of the petition, sponsors must file the proposal with the appropriate governmental authority. In California the sponsors submit their proposal to the attorney general, who prepares a thumbnail summary description that must appear on each page of the signature petition.

The National Municipal League's Executive Committee suggests that as part of any state's initiative process the attorney general issue a preliminary opinion as to the constitutionality of a proposed statutory measure. The opinion would be made public but could not prevent the sponsoring group from proceeding. Some states require such review only after the required signatures have been obtained and the petition found valid.

Signature Requirements

Most states have stringent requirements for the number of signatures needed to qualify a measure for inclusion on the ballot, using a percentage of the number of voters participating in a prior general election. Most states specify a percentage of the total vote for the office of governor in the last election; some use a percentage of the total vote for the highest statewide vote-getter; others specify only a percentage of electors. Florida specifies the prior presidential election. The actual requirements vary from 3 percent in Ohio and Massachusetts to 15 percent in Wyoming and Arizona. North Dakota is unique in that a specific number of signatures qualifies an issue for the ballot — 2 percent of the population according to the last decennial census.

There are usually differences between requirements for statutory and constitutional initiatives in those states permitting both kinds, the constitutional initiative requiring a higher percentage. This reflects the fact that a constitution is a basic document, and some think it should be more difficult to amend the constitution than to initiate legislation.

Only seven states require that signatures be distributed geographically. Typical requirements provide that a designated percentage of the voters who sign the petition must be residents of a designated percent of the election districts.

Two other requirements with respect to signatures should be noted. The first deals with who may sign; most states allow any "eligible voter" to sign. However, there can be confusion as to what constitutes an "eligible" voter. Unless the state specifies exactly what is meant, there may be problems in verifying signatures. Verification is the

second requirement: some states require it and specify the exact method, while other states do not specifically require verification or may do it on a sample basis. Such procedures are intended to prevent the inclusion of fraudulent signatures.

Circulation of Petition

The existence of public relations firms that specialize in managing ballot issue campaigns has raised the issue of paid petition circulators. This practice is widespread in California and has been criticized by many as an attempt to buy support for a proposal. Consequently, some states prohibit paid circulators. The obvious intent is to control the influence of interested interests. However, this prohibition is difficult to enforce, and it also makes it hard for a small, less-organized group of sponsors to get signatures.

Filing and Review

After getting the required number of signatures, the sponsoring group must file its petition. In states with precirculation requirements of review, there may be a designated time during which signatures may be obtained and a deadline for filing (in California it is 150 days). Generally, however, no absolute deadlines exist. For the direct initiative, the deadline is relative to the election at which the measure is submitted. For the indirect initiative, the deadline is relative to the date on which the legislature convenes. Failure to meet these deadlines merely delays the measures until the next election or legislative session, as the case may be. The usual deadline for a direct initiative is four months before the election in which it will appear on the ballot. But it may vary from 10 days to four months and 10 days. Oklahoma specifies no deadline at all. For indirect initiatives, some states require filing before the legislature convenes (10 to 30 days); one allows filing within 15 days after convening; some have no deadlines at all; and Massachusetts specifies the first Wednesday in December. South Dakota permits legislative consideration whenever a measure is received during a session.

In states permitting special elections for direct initiatives, failure to meet the deadline does not necessarily delay the consideration of the measure until the next regular election. However, a special election can be called only by the governor or the legislature or by a petition signed by a set percentage of the voters.

Deadlines are intended to allow time for verification of signatures and validation of the petition. In those states not requiring precirculation review, the initiative may be reviewed after it is filed for proper legal form, clear wording, and constitutionality, generally by the secretary of state and the attorney general. California has a legislative analyst whose job is to estimate the cost of any proposal; that estimate goes on the ballot along with the proposal.

Review for wording can be extremely important. In many cases, propositions have been worded so that a "yes" vote meant opposition to the issue and a "no" vote meant approval, which could result at the very least in voter confusion and at most in miscast votes. As examples of possible voter misunderstanding, consider a 1972 California proposition in which those in favor of farm labor unions had to vote against a collective bargaining measure supported by the growers, and a 1974 initiative in which a vote against the construction of a dam required a "yes" vote (supporting wild and scenic rivers).

Publicity

After filing the petition and having it declared valid, the sponsors do their best to ensure passage, which generally requires presenting their idea and the reasons for it to the voting public. The sponsoring group may hire firms specifically organized for the purpose to conduct publicity campaigns. In addition, many states distribute, at public expense, pamphlets containing descriptions of any proposed ballot measures. Some of them describe the impact of the proposals and arguments pro and con. The National Municipal League's Executive Committee supports that idea and recommends that the pamphlets be mailed to "every household in the state which has one or more voters in residence." California does so.

Contribution Limits and Disclosure

The U.S. Supreme Court has ruled that it is unconstitutional to limit spending on ballot issues by corporations. By contrast, spending by governments for or against an issue can be prohibited. However, requiring disclosure of contributions is allowable. Although the Internal Revenue Service is currently not permitting such contributions as "business expense" deductions, that regulation is being challenged.

Even strict campaign disclosure laws cannot guarantee identification of all spending on ballot issues. For instance, the courts have ruled that a group whose main purpose is not lobbying cannot be required to disclose contributions to ballot issue campaigns. Sponsors must report the amount they receive, but since contributors need not disclose how much they give, it is not possible to verify amounts.

Requirements for Passage

For direct initiative some states specify what vote is necessary for passage of a ballot issue. Most states require a simple majority of those voting on the question. A few require a simple majority of those voting for governor or the office attracting the highest number of votes. Massachusetts requires a simple majority provided that the number equals at least 30 percent of the total votes cast. Wyoming requires votes in excess of 50 percent of the total vote cast in the preceding general election.

In the special case of an indirect initiative that fails passage by the legislature or is passed in changed form, various states follow three different procedures. (1) In four states the original initiative and legislative alternatives are automatically placed on the ballot. (2) In South Dakota, whether the Legislature passes a citizen-initiated measure or not, it must be approved by the voters at the next election. (3) In three states, should the legislature fail to act, the sponsors are required to collect more signatures and re-file their proposal in order to get it on the ballot. The number of additional signatures required ranges from one-half of one percent of the total vote cast for governor in Massachusetts to 5 percent in Utah.

Immunity From Veto, Amendment and Repeal

In 21 states voter-initiated measures are immune from executive veto. There is great variation among the initiative states in allowing legislative amendment and/or repeal. Most states allow both amendment and/or repeal, although some require a two-thirds or three-fourths majority in both houses to do so. Other states set a time limit, usually two or three years, within which voter-initiated legislation is

immune from legislative action. Only Arizona forbids legislative amendment or repeal in cases where an initiative was approved by a majority of the qualified, eligible voters, but the electorate may amend or repeal all measures at any time.

Resubmission of a Failed Initiative

If the sponsors wish to resubmit a failed initiative, in some states they must wait from three to four years. Oklahoma allows resubmission within three years if more than 25 percent of the legal voters sign the petition. Most states have no such restrictions.

Enabling Legislation

The enabling legislation may appear in the original provision for initiative of a state constitution, or it may be wholly or partially a statutory provision. For example, Utah and Idaho merely made allowance for the initiative in their constitutions but left it to the legislature to spell out the enabling details (50 years later). Some other states included minute detail in their constitutions, and when minor changes in procedure were desired, a constitutional amendment was necessary.

THE REFERENDUM PROCESS

Procedure for Petition Referendum

After a legislature passes a law (excluding emergency measures), sponsoring groups may circulate petitions to place it on the ballot. The number of required signatures, varying by state, is usually lower than for an initiative. The figure is usually based on the number of votes cast for state officers in the most recent general election.

Some states require that a certain number of counties be represented by a stated percentage of the total signatures, while others set no geographical requirements. States vary as to who may circulate petitions (volunteers or paid circulators) and as to whose signatures will be counted (eligible voters only or all citizens). The minimum time for filing petitions before an election is commonly at least four months so that petitions may be checked for number and validity of signatures. If enough signatures are certified, the measure is placed on the ballot in the next special or general election.

Some states require that information on ballot issues and pros and cons be circulated statewide at public expense. Additional publicity may be distributed at the expense of the sponsors, proponents or opponents. The number of votes required to pass a referendum varies by state.

Procedure for Optional and Compulsory Referenda

The requirements of a state constitution or a decision by its legislature determine whether and when such referenda appear on the ballot. For these categories, citizen action involves only campaigning for or against and voting.

As of 1978 there was no comprehensive collection of data on legislative referenda in the U.S. However, information collected from 18 secretaries of state shows that legislative referenda on statutes are approved in about 60 percent of the cases, whereas initiatives are approved only 38 percent of the time and the referenda are used more frequently.

In California, a state that makes wide use of both

initiative and referendum, most ballot issues are constitutional referenda. The petition referendum (perhaps because of the time limitation or the continual legislative session) has not been used since 1952. Many elements of the referendum process parallel those of the initiative process described earlier.

RECALL

Procedure for Recall

Citizens may activate a recall election by circulating petitions. After acquiring the necessary number of signatures, the sponsors file the petition with a specified official for verification of the number and legality of the signatures.

Three basic procedures exist for the conduct of recall elections: (1) Voters first vote "yes" or "no" on the question of recalling a specific official. If the majority vote for recall, a second election must be held to select a replacement. (2) The citizen who votes for recall also votes at the same time for someone to take the place of the person recalled. (3) The name of the incumbent against whom the petition has been filed is placed on the ballot, along with candidates to replace him or her. The voter then chooses from among all the names.

Cities and counties in more than three-fourths of the states provide for local recall elections, and on that level it is frequently used. Statewide recalls are less frequent and less successful.

There are several reasons why recall is not frequently used. The prime reason may be the large number of signatures generally required, up to 25 percent of a state's voters. Other reasons are: (1) legal restrictions on its use; commonly an official must be in office for a certain period of time, usually six months, before proceedings may be begun; (2) an incumbent may not face a recall election more than once in a term of office; (3) popular reluctance to use the recall is probably another factor.

Recent Experiences with Initiative, Referendum and Recall

Florida, in November, 1978, included on the ballot eight constitutional amendments proposed by the Constitutional Revision Commission and one petition to allow casino gambling in Miami. The electorate reacted to the lengthy ballot by defeating all proposals.

Arizona has had a wide range of initiative proposals on the general election ballot, the last in 1976. The proposal which would have required legislative approval of nuclear facilities was defeated by a 70.1 percent negative vote, with 90 percent of those who voted voting on the issue. In 1974 a constitutional amendment initiative proposing the appointment of judges and their retention or rejection in nonpartisan elections passed by an 84.5 percent vote, with 63.3 percent of those who voted in the election also voting on the issue.

California is the only large, urban, industrial state using both constitutional amendment by initiative and direct statutory initiative. In fact, California uses direct democracy more than any other place in the world. Constitutional amendments proposed by the Legislature outnumber the statutory initiatives on the ballot by three to one. From 1970 to 1976, 17 initiative measures qualified for the ballot. There were 10 in 1972 alone. In 1978 the now famous Proposition 13 appeared on the June primary ballot; the general election ballot included proposals on anti-smoking, barring homosexuals from school em-

ployment, and extension of the death penalty.

The groups using initiative are the same as those who lobby the Legislature. The public education that occurs in an initiative campaign, even in defeat, often arouses enough support to gain passage of similar legislation, e.g., the recent campaign to decriminalize marijuana.

Professional groups are often hired to circulate petitions and manage initiative campaigns. In 1978, 500,000 signatures were required within a 150-day period. The 1978 going rate was 50¢ per signature. Between 1972 and 1976, \$22,518,000 was spent on 16 propositions. But spending did not necessarily mean victory. The side spending the most won one-half of the 16 campaigns. Proponents of Proposition 13 spent only \$28,000 because of extensive volunteer efforts.

The tobacco industry spent \$6.4 million in killing the anti-smoking initiative, and the proponents spent only \$680,000. An oil company spent \$860,000 in defeating an attempt to block construction of an oil terminal in Long Beach, California. The losing side spent \$17,000.

In California voter participation on initiative issues is high: about 90 percent of those voting in an election vote on the ballot initiatives. However, only about half the eligible voters actually go to the polls.

North Carolina, in the legislative sessions of 1973-1975 and 1977-1979, tried but failed to add recall to the state's constitution. The most recent proposal would have required signatures on a recall petition equal to 25 percent of the votes cast in the governor's election.

INITIATIVE AND REFERENDUM PROS AND CONS

Introduction

Have you already decided whether you would support initiative and referendum for Minnesota? If so, your decision may be based on your general philosophy of government and your expectations of what might be enacted through the use of initiative and referendum rather than on an objective weighing of the arguments for and against. Pro and con arguments may be used mainly to confirm that opinion. Whether a particular argument is pro or con may depend on one's point of view. Almost any argument can be worded to reflect both a pro and con perspective. For all these reasons, pros and cons on initiative and referendum may be superfluous for convincing others and useful only for information and conversation. An honest evaluation of one's own basis for making a decision on initiative and referendum may help one to understand why a neighbor or friend feels exactly the opposite.

Following are some of the arguments that have been put forth by proponents and opponents of initiative and referendum, grouped by subject matter. There are philosophical arguments plus pragmatic concerns for the state legislative process and the effect of initiative and referendum on voters, campaigns, elections, political parties and special interest groups.

Philosophical Arguments

Direct democracy versus representative democracy is a basic argument used by both sides. In our system we elect representatives at all levels of government to make laws and operate government. The question is: does allowing

voters to make laws directly conflict with or complement this representative system?

PROponents of initiative and referendum believe that direct democracy provides a safety valve against unresponsive and oppressive government; that it complements rather than replaces representative government. They point out that democratic government is based on the rule of the majority and that citizens should have the right to vote directly on important issues. Some proponents hope that initiative and referendum will enable the public to control the growth of government by counteracting the pressures for growth that come from within the government bureaucracy. They argue that most states have either initiative or referendum or both, and that none has ever repealed it.

Emotional issues are better settled by direct vote, proponents say, because, as in the election of a President, there is general acceptance of the voters' decision. They cite referendum as a legitimate and effective way for people to protest government action; if elected representatives act against the wishes of the general public, their action can be reversed.

OPponents of initiative and referendum maintain that direct legislation is contrary to the principle of representative government. They say these measures reduce the accountability of elected officials. They claim initiative and referendum will be used to hamper government, reduce revenues and limit spending. Opponents point out that representative government protects minorities from the tyranny of majorities, and they fear that programs which help the poor and minorities would suffer in the long run through direct legislation. They say that emotional issues tend to be submitted through initiative and referendum, the solution proposed may not solve the basic problem it is meant to address, and that permanent solutions to temporary problems might be enacted.

Those who oppose initiative and referendum also point out the public costs involved in checking petition signatures and note that signatures must be checked on many petitions that never qualify for the ballot. Minnesota opponents of initiative and referendum have stated that the present system of lawmaking in Minnesota works well and is responsive to the public. Changing it, they say, would not solve any specific problems and might create more problems than it would solve.

Minnesota's Legislative Process

Arguments about the effect of initiative and referendum on the state Legislature apply more specifically to Minnesota than do the general philosophical arguments previously discussed.

OPponents of initiative and referendum for Minnesota declare that the state does not need initiative and referendum because the Minnesota Legislature has been rated one of the best and most responsive in the nation; that we already have a satisfactory lawmaking system. They think initiative and referendum would detract from the effectiveness of the system. Opponents point out that the public has adequate access to the legislative process through committee hearings and talking with legislators who are highly sensitive to the views of their constituents. They find it fairly easy to get a bill introduced and to get a hearing on it. They believe initiative and referendum would reduce the power of the Legislature and thus reduce interest in running for a legislative seat. They claim that initiative and referendum have had years of trial, and there is no evidence to prove that they have improved the legislative climate in states where they are used.

Opponents place importance on the give and take of

discussion within the Legislature and the compromise it produces on controversial issues. To them, that is a much better way to make laws than the yes-no vote on a single question that occurs when laws are made by direct legislation.

ADVOCATES of initiative and referendum point to inadequacies they see in the present Minnesota legislative process. They cite problems of self-interest on issues that affect the Legislature itself (e.g., reapportionment and legislative salaries, per diems and pensions), and believe that initiative and referendum would provide an effective check on that self-interest. They think that the large size of the Minnesota Legislature makes it difficult for a citizen to exert much influence on state law. The trend to a full-time Legislature, they say, may mean that legislators will tend to become part of the government bureaucracy and less responsive to citizen interests. As evidence of legislative insulation, they cite instances where the Legislature has killed a bill in committee or added significant amendments without adequate opportunity for public testimony.

Some proponents argue that there is a lack of openness in the legislative process, as indicated by the fact that the Open Meeting Law does not apply to the state Legislature.

Supporters of initiative and referendum have made the argument that there has been a power shift from local to state government, particularly in revenue-raising, and that this has created a need for initiative and referendum at the state level. However, opponents counter this argument by questioning whether and how initiative and referendum could deal with the issues raised by this power shift.

A final question is whether voting legislators out of office is an effective way of keeping the Legislature responsive to public opinion. Those who support initiative and referendum say that voting on laws directly is less cumbersome and may be more fair to an otherwise popular legislator than throwing him/her out of office because of his/her stand on a particular issue.

The Voters

Another disagreement about initiative and referendum is the effect they would have on voter attitudes toward government, voter education and voter turnout at elections.

ADVOCATES believe that initiative and referendum would help to alleviate loss of confidence in government by giving citizens more responsibility and more opportunity to be active in the political process. They say that having issues on the ballot educates voters and that experience shows voters are discriminating when they vote on issues. They point out that polls in Minnesota indicate that a majority of people favor initiative and referendum. Both major candidates for governor supported these measures during the 1978 campaign.

THOSE OPPOSING initiative and referendum do not agree that a change in the structure of government would reduce voter frustration and alienation from the political process. They say voters may not inform themselves on the technical implications of ballot issues and that voter judgments may be too hasty and subject to emotional appeals. They suspect that many people lack interest in issues that do not have a direct impact on them.

Studies disagree on whether ballot issues have an effect on turnout at elections. Some show that voter turnout is improved if voters are interested in ballot issues, while others indicate that highly publicized ballot issues have little effect in increasing the number of voters.

Campaigns and Elections

In discussions of campaigns and elections, the arguments focus on campaign spending, the use of mass media and the wording of ballot issues.

OPponents fear that the initiative and referendum processes favor those with the most money to spend on a campaign, regardless of the merits of an issue. They see a need for effective limits on campaign spending. They are also concerned that the wording of an issue may have a significant impact on the vote because the issue must be framed as a yes-no question; no compromise is possible. They believe that use of the mass media tends to oversimplify issues and may mislead voters unless some checks on veracity are provided. Further, placing issues on the ballot may create an overly long ballot with more items than a voter can intelligently consider.

Some think that in Minnesota the combination of election-day registration and initiative and referendum might cause many people to register simply to vote on a particular question. A further concern is that issues on a ballot may lessen interest in candidates. Conflicting issues on the same ballot may create problems; a method for resolving such problems is needed.

PROponents of initiative and referendum counter these arguments by pointing out that the side that spends the most money on an issue campaign does not always win. They see no significant differences between campaigns for candidates and campaigns for issues because the same advertising methods are used. To advocates, it is an advantage that campaigns and issues interact, so that a candidate sometimes is forced to take a stand on an issue that he/she would rather avoid. Some maintain that the use of initiative and referendum should be restricted to general elections only so that the vote will truly reflect majority opinion.

Political Parties and Interest Groups

The effect of initiative and referendum on political parties and special interest groups is also debated.

THOSE WHO FAVOR initiative and referendum believe their use would help fill the gap in interest on issues resulting from a decline in political party strength. They think referenda would reduce the influence of special interest groups on the Legislature by providing public recourse against legislation favoring such groups. They say legislators would have more freedom to ignore the pressures from special interest groups because issues could be placed on the ballot; the interest group could circulate a petition rather than directing its efforts toward defeating the legislators at the next election. Advocates also point out that initiative and referendum would allow general interests to prevail over special interests on such issues as consumer legislation and environmental protection.

OPponents of initiative and referendum, on the other hand, believe they would increase the power and dominance of wealthy special interest groups. They fear initiative and referendum would have an adverse effect on political parties and party platforms by encouraging the further development of single interest groups. They are concerned that these measures might be used to reduce the human rights of minority groups as, for example, in recent votes on gay rights. In their opinion, minorities have greater access to the legislative process through the Legislature than they would through initiative and referendum.

RECALL—PROS AND CONS

Recall arguments pro and con center on whether it is a necessary protection for the public or an opportunity for unnecessary harassment of public officials.

The principal argument **IN FAVOR** of recall is that it provides a means for the public to remove an official without waiting for the completion of his/her term. Proponents say it increases the accountability of those in public office. Because the threat of recall is always present, officials are unable to thwart the will of the general public.

OBJECTIONS to recall are that it may be used to harass public officials or serve as a tool for special interest groups to threaten those who oppose their interests. Opponents point out that recall is not necessary to remove a corrupt official because other legal methods are available to punish malfeasance in office. Opponents of recall are also concerned about the costs of a recall election.

* * * * *

A **FINAL POINT OF DISAGREEMENT** is the kind of laws that tend to be enacted through the initiative and referendum processes. In the eyes of some, initiative and referendum are conservative tools, used to cut taxes, limit government powers, and repeal unpopular human rights laws. Others say initiative and referendum are liberal tools, used to enact laws on consumer protection and environmental quality, gun control, and equal rights. A study of issues on the ballot in various states shows that initiative and referendum have been used for all types of issues.

Which groups or political persuasions have benefited from direct legislation (initiative and petition referenda) since 1945?

"Liberal positions on economic questions . . . generally won, conservative positions on social issues . . . won, while environmentalists broke even with the advocates of economic growth on nuclear power issues."³

Support for initiative and referendum comes from both conservative and liberal groups; the same is true of opposition. Bills proposing initiative and referendum have been introduced by both DFL and I-R members.

All these arguments, pro and con, deal with the same basic issues — should there or should there not be more direct democracy within the representative form of government. Opinions on these issues cross political and philosophical lines; weighing the pros and cons provides no easy answers. Have you made your choice?

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1. Richard Hofstadter, "The Age of Reform, Indirect Initiative," *National Civic Review*, 1973, p. 233.
2. David Butler and Austin Ranney, "The United States of America," in *Referendums: A Comparative Study of Practice and Theory*, Butler and Ranney, eds., Washington, D.C.: American Enterprise Institute, 1976, p. 81.
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Testimony on H.F.484
House Committee on Governmental Operations & Veterans Affairs Policy
February 24, 1999

Mr. Chair and Members of the Committee my name is Jane McWilliams. I am a volunteer lobbyist for the League of Women Voters of Minnesota. The League has a long-standing interest in initiative and referendum. Following a study by our members 15 years ago, we took a position in opposition to these ways of enacting laws and/or amending the Constitution. Nothing has happened since our state-wide study and consensus to change our position. We oppose all four components in H.F.484.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well deserved reputation nationally for an open government, enlightened public policy made by equally enlightened public policy makers.

League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. There our elected representatives, reflecting a wide range of political views can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises. No citizen, regardless of how conscientious and deliberative, has access to as much information and viewpoints as the members of our legislature. Initiating or repealing statutes by the method designed in H.F. 484 would bypass the kind of scrutiny an enlightened legislature like ours in Minnesota gives lawmaking.

Furthermore, the League believes the public has ample opportunity to be involved in developing policy. First of all, we elect and unelect our legislators at the ballot box in order to assure representativeness. Biennial election of house members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

Second the system here at the Capitol is open to all. Likely, no government in the nation is as accessible as ours. Citizens may provide input at hearings like the one today, call legislators, write letters and take advantage of legislators' visits to their districts in order to have their views known. In these many ways, citizens' concerns may be communicated to legislators and where appropriate, policy enactment or change can be initiated and subject to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply here as to creating legislative policy. Citizens have an opportunity to review legislative proposals for amendments just as we are doing today.

We note with interest that although the percentages of petitioners are higher for amendments than for simple statutes, the simple majority of those voting on the question is a reduction of the present majority of those voting in the election required for passage of an amendment. Do the proponents of this amendment want to endorse a smaller majority passage for initiative amendments as opposed to those initiated by the legislature?

As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well informed and active citizens can and have chosen wisely the people who can and will devote time and energy to lawmaking in their behalf. We urge you to defeat this proposal.



THE LEAGUE
OF WOMEN VOTERS

M I N N E S O T A

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

March 16, 1999

LWV of Massachusetts
133 Portland St.
Boston MA 02114

Dear Colleague:

There is a possibility that Minnesota may be dealing with an Initiative and Referendum Amendment to our State Constitution in 2000. We last visited this issue in a 1979 study and opposed a similar amendment in 1980. Naturally we are feeling somewhat out of date in applying the research and studies done at that time to the present situation.

We know that you have initiative in your state and would like to know the League's experience with the matter both from your added responsibilities in voters service and whether or not you have supported or opposed initiative and referendum in the past and your present attitudes toward its working in your state.

I am trying to gather as much information as soon as possible and would very much appreciate any information that you can forward.

You can send by fax, e-mail or regular mail.

Thank you in advance.

Nancy Witta
Legislative Coordinator



THE LEAGUE
OF WOMEN VOTERS
MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

March 16, 1999

LWV Maine
RR5 Box 62
Cape Elizabeth ME 04107

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MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

March 16, 1999

LWV Washington
1411 4th Ave. Bldg. #803
Seattle WA 98101

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THE LEAGUE
OF WOMEN VOTERS

MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

March 16, 1999

LWV of California
925 J Street #1000
Sacramento CA 95814

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THE LEAGUE OF WOMEN VOTERS

MINNESOTA

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Testimony on H.F.484

House Committee on Governmental Operations & Veterans Affairs Policy
February 24, 1999

Mr. Chair and Members of the Committee my name is Jane McWilliams. I am a volunteer lobbyist for the League of Women Voters of Minnesota. The League has a long-standing interest in initiative and referendum. Following a study by our members 15 years ago, we took a position in opposition to these ways of enacting laws and/or amending the Constitution. Nothing has happened since our state-wide study and consensus to change our position. We oppose all four components in H.F.484.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well deserved reputation nationally for an open government, enlightened public policy made by equally enlightened public policy makers.

League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. There our elected representatives, reflecting a wide range of political views can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises. No citizen, regardless of how conscientious and deliberative, has access to as much information and viewpoints as the members of our legislature. Initiating or repealing statutes by the method designed in H.F. 484 would bypass the kind of scrutiny an enlightened legislature like ours in Minnesota gives lawmaking.

Furthermore, the League believes the public has ample opportunity to be involved in developing policy. First of all, we elect and unelect our legislators at the ballot box in order to assure representativeness. Biennial election of house members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

Second the system here at the Capitol is open to all. Likely, no government in the nation is as accessible as ours. Citizens may provide input at hearings like the one today, call legislators, write letters and take advantage of legislators' visits to their districts in order to have their views known. In these many ways, citizens' concerns may be communicated to legislators and where appropriate, policy enactment or change can be initiated and subject to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply here as to creating legislative policy. Citizens have an opportunity to review legislative proposals for amendments just as we are doing today.

We note with interest that although the percentages of petitioners are higher for amendments than for simple statutes, the simple majority of those voting on the question is a reduction of the present majority of those voting in the election required for passage of an amendment. Do the proponents of this amendment want to endorse a smaller majority passage for initiative amendments as opposed to those initiated by the legislature?

As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well informed and active citizens can and have chosen wisely the people who can and will devote time and energy to lawmaking in their behalf. We urge you to defeat this proposal.



THE LEAGUE OF WOMEN VOTERS

M I N N E S O T A

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

TO: Members of the Minnesota House of Representatives

FROM: League of Women Voters of Minnesota

RE: Proposed Initiative and Referendum Constitutional Amendment

DATE: March 22, 1999

The League of Women Voters of Minnesota has a long-standing interest in initiative and referendum. Following a study by our members 15 years ago, we took a position in opposition to these ways of enacting laws and/or amending the Constitution. Nothing has happened since our statewide study and consensus to change our position. We oppose all four components in H.F.484.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well-deserved reputation nationally for an open government, enlightened public policy made by equally enlightened public policy makers.

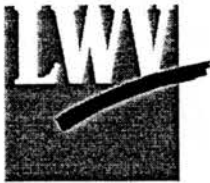
League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. Our elected representatives, reflecting a wide range of political views, can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises. No citizen, regardless of how conscientious and deliberative, has access to as much information and viewpoints as the members of our legislature. Initiating or repealing statutes by the method designed in H.F. 484 would bypass the kind of scrutiny an enlightened legislature like ours in Minnesota gives lawmaking. No one can appreciate better than you can the difficulty of a simple yes or no answer to proposed legislation. This is what voters would be required to do without benefit of compromise.

Furthermore, the League believes the public has ample opportunity to be involved in developing policy. First, we elect and defeat our legislators at the ballot box in order to assure representation. Biennial election of House members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

Second, the system here at the Capitol is open to all. Likely, no state government in the nation is more accessible. Citizens may provide input at hearings, call legislators, write letters and take advantage of legislators' visits to their districts in order to express their views. In these many ways, citizens' concerns may be communicated to legislators and, where appropriate, policy enactment or change can be initiated and subjected to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply as to creating statutes. Citizens have an opportunity to review legislative proposals for amendments.

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Nancy Witta

League of Women Voters of Minnesota

League of Women Voters of Minnesota Education Fund

550 Rice Street, St. Paul, MN 55103

Fax Cover Sheet

DATE: 3/24/99

TIME: 10 a.m.

TO: *Legislative CL*
Koebel Price - AFL CIO
Scott Ray - Ed Mn
FROM: *Joan Archer, Soft Drink Assoc.*
Annette Henkel, Retail Merch Assn.
RE: *Lee Anderson, Mn Assoc.*
CC: *Susan Heegaard, MN Chamber*

PHONE:
FAX:
PHONE: (612) 224-5445
FAX: (612) 290-2145
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<http://freenet.msp.mn.us/ip/pol/lwvmn>

Number of pages including cover sheet: [3]

Message

Re: Initiative & Referendum

Thought you might like to see what we distributed in the House

ACTION



THE LEAGUE
OF WOMEN VOTERS
MINNESOTA

550 Rice Street • Saint Paul, Minnesota 55103
Phone 612-224-5445 • Fax 612-292-9417
lwv@freenet.msp.mn.us
<http://freenet.msp.mn.us/ip/pol/lwvmn>

TO: SELECTED LOCAL LEAGUES
FROM: CAROL FRISCH, ACTION CHAIR
RE: INITIATIVE AND REFERENDUM
DATE: MARCH 25, 1999

1919
A VOICE
FOR CITIZENS,
A FORCE
FOR CHANGE
1994

A proposed constitutional amendment to place Initiative and Referendum on the Ballot in the 2000 general election passed the House on Monday. A companion bill authored by Sen. Terwilliger (R-Edina) is expected to be heard in the Senate Election Laws Committee the week of March 29. Your senator is among those listed on the committee. We are asking that you contact the senator immediately and express the League's opposition to this proposed amendment.

Enclosed is a copy of the League's letter to House members which will give some background for your contacts. Here are some quick talking points:

- Initiative and referendum has only been passed by 5 states since 1919 and has failed to pass muster in Minnesota three times as a constitutional amendment. The last attempt was in 1980.
- Historically I & R was introduced early in the century to correct the evils of corruption and bribery, political machines and to advance the cause of populism in the face of domination by big-monied interests. Minnesota has the most advanced campaign finance laws and scrutiny of lobbying in addition to gift ban provisions in the nation. To establish initiative and referendum now would put big money back in control of issues since there can be no regulation of spending on issue campaigns. The Supreme Court has ruled that this is a free speech issue.
- Direct democracy (I&R) encourages conflict and competition and attempts to expand the base of participants. Indirect democracy encourages stability, consensus and compromise and seeks institutional arrangements that insulate fundamental principles from momentary passions or fluctuations in opinion.
- Initiatives have threatened the rights of minorities in several states. There is no protection from the "tyranny of the majority."

PLEASE CONTACT YOUR SENATOR NOW AND ASK THAT THE PROPOSED AMENDMENT SF678 NOT BE PASSED OUT OF THE SENATE ELECTION LAWS COMMITTEE.

Senator Roy Terwilliger, author, Edina

Senate Election Laws Committee:

John Marty, Roseville, chair

Ember Junge, New Hope, vice chair

Mark Ourada, Buffalo, ranking minority member

Carol Flynn, Mpls.

Dennis Frederickson, New Ulm

Dean E. Johnson, Willmar

Douglas J. Johnson, Tower

Cal Larson, Fergus Falls

Roger Moe, Erskine

Dallas Sams, Staples

Linda Scheid, Brooklyn Park



THE LEAGUE OF WOMEN VOTERS

M I N N E S O T A

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

TO: Members of the Minnesota House of Representatives

FROM: League of Women Voters of Minnesota

RE: Proposed Initiative and Referendum Constitutional Amendment

DATE: March 22, 1999

The League of Women Voters of Minnesota has a long-standing interest in initiative and referendum. Following a study by our members 15 years ago, we took a position in opposition to these ways of enacting laws and/or amending the Constitution. Nothing has happened since our statewide study and consensus to change our position. We oppose all four components in H.F.484.

The League doesn't think our present system has failed and that the public policy process needs this kind of "fix". Our founders envisioned a representative democracy on the federal level and since its founding, Minnesota has benefited greatly by establishing and maintaining that model. Our state has a well-deserved reputation nationally for an open government, enlightened public policy made by equally enlightened public policy makers.

League believes that consideration and enactment of complex public policy is most appropriately done in the legislative arena. Our elected representatives, reflecting a wide range of political views, can hear arguments, study implications, make judgments and vote accordingly. In our bicameral legislature, public policy is subject to parallel consideration with conference committees often hammering out negotiated compromises. No citizen, regardless of how conscientious and deliberative, has access to as much information and viewpoints as the members of our legislature. Initiating or repealing statutes by the method designed in H.F. 484 would bypass the kind of scrutiny an enlightened legislature like ours in Minnesota gives lawmaking. No one can appreciate better than you can the difficulty of a simple yes or no answer to proposed legislation. This is what voters would be required to do without benefit of compromise.

Furthermore, the League believes the public has ample opportunity to be involved in developing policy. First, we elect and defeat our legislators at the ballot box in order to assure representation. Biennial election of House members assures responsiveness. The four-year election cycle for senators maintains stability balanced by opportunity for voters to hold senators accountable.

Second, the system here at the Capitol is open to all. Likely, no state government in the nation is more accessible. Citizens may provide input at hearings, call legislators, write letters and take advantage of legislators' visits to their districts in order to express their views. In these many ways, citizens' concerns may be communicated to legislators and, where appropriate, policy enactment or change can be initiated and subjected to the legislative process.

The League also opposes the citizen-initiated amendment of the Constitution. The same arguments apply as to creating statutes. Citizens have an opportunity to review legislative proposals for amendments.

As close observers of the legislative scene, the League of Women Voters does not see any reason for this kind of change in our public policy decision-making process. We believe that well-informed and active citizens have chosen wisely the people who can and will devote time and energy to lawmaking in their behalf. We urge you to defeat this proposed amendment.

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Calif
Idaho
Mass

McCollum

do voters guides for registered voters
failed

del action votes do

Ballot Initiative Campaign Management businesses

Johnke 5% of all 87 counties failed

2000 Q2 L 10 next

McCollum - indirect initiative - allows pros & cons - Legis holds
hearings - voters choice failed

TO: SELECTED LOCAL LEAGUES
FROM: CAROL FRISCH, ACTION CHAIR
RE: INITIATIVE AND REFERENDUM
DATE: MARCH 25, 1999

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**LEAGUE OF WOMEN VOTERS
OF MINNESOTA**

PHONE (612) 224-5445

555 WABASHA • ST PAUL, MINNESOTA 55102

BACKGROUND: INITIATIVE/REFERENDUM;
LWVMN FAVORS REPRESENTATIVE DEMOCRACY
(Ellen Mork, Government Co-chair,
LWVMN, October, 1980)

The League of Women Voters of Minnesota (LWVMN) is opposed to the proposed Constitutional Amendment #4. This amendment would provide for initiative and referendum (I&R). It would give the voting public the chance to place a citizen initiated law on the ballot for approval or rejection by the voters (initiative). Laws passed by the legislature and signed by the governor could also be subject to repeal by the voters under this provision (referendum).

Why would the League oppose such an obviously "democratic" idea? Isn't the League supposed to be in favor of good government? The answer is "yes"; LWVMN is in favor of good government. That is the basic reason we oppose this amendment. Over the past year and a half our members studied and discussed the theory and practice, the pros and cons of I&R. Responses to that study resulted in the position under which LWVMN is opposing Amendment #4; our members indicated strong opposition to direct initiative on statutes.

After detailed study of the issue LWV members agreed that I&R is an idea which is unnecessary in Minnesota and probably unwise. Minnesotans currently enjoy government that is open, responsive, and effective. Our legislature has been ranked among the top ten by the Citizen's Conference on State Legislatures. Historically, I&R were adopted in states where political scandal and corruption were synonymous with the word "legislature"; this is most certainly not true in Minnesota.

In addition to the positive nature of our state government, there is another reason initiative is not needed. Citizens currently possess similar powers. to those granted by initiative! Quoting from the House of Representatives' Information Office pamphlet, "How a Bill Becomes Law in Minnesota," "Anyone can propose an idea for a bill - an individual, a consumer group, corporation, professional association, a governmental unit, the governor..." and "Each bill must have a legislator to sponsor it." It would seem infinitely easier to convince a few legislators to introduce a bill than it would be to obtain the estimated 80,000-100,000 necessary signatures on a petition. Proponents will say that such a bill could easily be killed in committee, which is true, but an initiative might never receive the necessary signatures either.

Furthermore, under representative government, a bill undergoes scrutiny, discussion, public hearings, and, generally, amendment or compromise. Compromise is the basic strength of our government. It allows for input from and consideration of the varied interests that make up a pluralistic society. I&R allow no chance for public input prior to the election for which an issue qualifies unless one is a member of the sponsoring group. It is entirely possible for meetings at which the proposed legislation is discussed to remain private and closed to public view - a distinct difference from current legislative procedure.

Another major drawback of I&R is the threat they pose to the poor and other minority groups. Our current process allows minorities a voice when legislation is being considered. It would be prohibitively expensive for minorities to have to present their case before the entire electorate. Minority rights have fared well under the present system; there is no guarantee that they would fare as well if I&R were adopted.

(over)

Would the public adopt a fuel assistance program for those in need during a time when their own fuel bills are skyrocketing?

The nature of the campaign for and against ballot issues is another reason we consider I&R to be unwise. The arguments are reduced to simplistic slogans, the campaigns are run by public relations firms, and the emotional nature of some issues is exploited. Advertising can sell us soap; do we want billboards selling us legislation?

These are some of the reasons for LWVMN questioning the need for or the wisdom of I&R for Minnesota. Our current system has checks and balances that work to provide equal treatment under the law. We urge citizens to consider the need for I&R and then to vote "No" on #4 on November 4!

For further information contact:

Ellen Mork, (612) 252-1034
or the LWVMN office, 224-5445.



**LEAGUE OF WOMEN VOTERS
OF MINNESOTA**

PHONE (612) 224-5445
555 WABASHA • ST PAUL, MINNESOTA 55102

CON ARGUMENTS ON AMENDMENT #4 -
INITIATIVE AND REFERENDUM

To: Local Leagues
From: Ellen Mork, Government Co-chair, LWVMN, and Harriette Burkhalter, President, LWVMN
Re: Con Arguments on Amendment #4 - Initiative and Referendum
Date: September 15, 1980

Attached is a summary of both the "pro" arguments currently being used by the YES ON 4 Committee and the "con" arguments that apply specifically to our position. LWVMN has had several requests for "con" speakers from groups outside the League. We are glad to have the opportunity to present our arguments, and we encourage you to use this material if you have the opportunity to debate. This campaign is providing excellent visibility for the League of Women Voters.

Keep in mind our opposition is based on the position against direct initiative. Much of the "yes side's" time so far has been spent in attempting to define the proposal as a form of indirect initiative because the Legislature could pass a law in response to the petitions.

The definition of indirect initiative used in FACTS AND ISSUES which LWV members used for our study and consensus stated that the completed petition is submitted to the Legislature which must then enact the proposed measure within a set time or the question is put on the ballot.

The key point in that definition is that the Legislature controls whether the measure reaches the ballot. In the proposed Minnesota amendment the sponsors will have control, and the Legislature is not necessarily involved in law-making.

States with indirect initiative have various requirements on the process with different opportunities for legislative action. Amendment 4 is a unique form. The LWVMN Board of Directors, after consulting sources outside of our study committee, determined the proposal most nearly met the definition LWVMN members used for direct rather than indirect, and we have based our actions on that decision. Keep in mind consensus results indicated our members did not support indirect initiative or statutes; they were divided, and we have neither a support nor opposition position to that form.

We continue to look forward to the official formation of a Coalition Against Amendment #4, but at present LWV seems to be bearing the burden of opposing alone. We hope this material will assist you in spearheading opposition to question 4 in your community. Don't forget to check the con arguments in FACTS AND ISSUES.

Keep us posted on your activities!

Should your League be asked to participate in a debate or forum on Initiative and Referendum (I&R), you may wish to use some of the following arguments in response to typical statements of proponents of I&R.

If proponents say...

The people want I&R! (They will quote a MN poll showing 72% favor initiative and 77% favor referendum.)

I&R builds public confidence in government. (They may cite a study; their brochure cites an opinion poll by the Cambridge Survey Organization to the effect that 75% of the voters would be more likely to vote if there were initiatives on the ballot. This is actually an argument for increased voter participation in the election process!)

The public has little confidence in government, and what they have is decreasing. I&R states are more highly rated (or have better government) than states not having I&R. (They may cite Citizens Conference on State Legislatures to the effect that California has I&R and is most highly rated.)

I&R increases voter participation. "In 1978, the 16 states with initiatives on the ballot had 20% higher turnout than the 27 states not allowing initiative" - from the "MN Citizens for I&R" brochure.

If the Legislature fails to deal with an issue the public thinks deserves attention, or if they pass a bill that the people don't like, the people would have some recourse if they had I&R available.

(continued)

then you say...

Is it needed? LWVMN maintains that I&R are unnecessary reforms in an open, accountable, responsible, effective, and progressive government. MN has this type of government.

There are studies which can be cited on both sides of this issue. When studies present conflicting results, the evidence is inconclusive. A MN Poll (March, 1980) indicated that public trust in government was indeed low, but that Minnesotans have more confidence in state level government. A comparison with a Michigan poll leads the MN Poll to state that Minnesotans "clearly feel better about their state government than Americans did generally 3 years ago."

The Citizens Conference on State Legislatures (1970) has rated Minnesota 10th in the nation (see the Committee Guide on I/R&R for the details). To quote them on the Minnesota Legislature, its "outstanding feature is the general openness and accountability of its processes and activities." Also cite the March, 1980, MN Poll given above.

There again, the studies are inconclusive. With reference to the states with I&R vs. those without it, point out that the figures being compared here are averages. Actually, MN had the highest voter turnout in the nation in 1978 (55.2%), and we don't have I&R yet! Additionally, voter turnout on initiatives depends on the topic; the highest turnout on any ballot issue in 1978 (52%) was in Oregon, and the issue (which passed) allowed lab technicians to fit dentures without supervision of a dentist! The Committee for the Study of the American Electorate in 1978 found no discernable national impact of ballot propositions on voter turnout.

The people currently have some recourse. They may write letters of complaint to legislators and/or letters to the editor. They may vote against a legislator who was irresponsible. They may ~~initiate~~ legisla-

(continued)

Just the availability of I&R would pressure the Legislature to deal with these issues or to consider legislation very carefully.

The legislative process takes place behind closed doors; there is no place for public input.

I&R provides an opportunity for a pure issue to be placed on the ballot. Such an issue would not suffer the eroding effects of legislative compromise. The Legislature can compromise the "guts" right out of a bill.

I&R provides a great chance to educate the public on the issues.

tion by submitting proposals to legislators, gaining sponsors, and lobbying a bill as LWVMN did with Job Sharing. It is true that the people can't repeal laws under the current situation.

NOTE: LWVMN has no position pro or con on petition referendum. If a group thinks legislation is inappropriate, they can do nothing but write letters and work for repeal; but, if they think it is unconstitutional, they can file suit in court.

There are currently open meeting procedures adopted by both houses. Public hearings are provided on many issues (I&R was one such issue). In fact, there is absolutely NO place for public input of an advisory nature when a sponsoring committee drafts its position proposal. If you are one of the 50 on the committee, you have a say - otherwise you don't. Public input is limited to (a) signing or not signing the petition; (b) voting on a qualifying ballot issue. The bill requires that when the sponsors confer with the Revisor of Statutes, the Revisor is bound by the bill to treat all discussions as confidential.

LWVMN believes that compromise is a positive process. You may cite the joint committee process by which I&R in its present form was placed on the ballot. A member of that committee has stated that one house sent a bill to joint committee that was essentially Gov. Quie's proposal (strict limits, 10% signatures in each of our 87 counties). The other form was more liberal as to limits; compromise resulted in the present bill, which has less strict limits.

Issue campaigns are generally run in the same manner as candidate campaigns: billboard, short brochures; 30-second radio or TV spots; newspaper ads saying VOTE YES or VOTE NO, but seldom why. Complex issues require study in detail and do not lend themselves mass media campaigns. If advertisers can sell you sugar-coated cereal, they can sell you an initiative issue. Observers in states having I&R report that there is a tendency to oversimplify complex issues in a ballot campaign. In some states campaigns are run by public relations firms. A Cincinnati study found that after one year of a massive educational campaign, most people didn't know any more about the issue than when the campaign started.

Special interests and lobbyists will no longer be able to influence legislators, or at least they will lose some influence.

They will lose influence with the Legislature in those areas addressed by initiative but will gain that same interest with voters. They will surely shift their focus from the Legislature to the public. The Legislature will continue to function with its plusses and minuses, but I&R will complicate lawmaking, unnecessarily.

I&R protects the rights of citizens.

NO, the Judiciary protects the rights of citizens.

If proponents challenge any statements you make to the effect that I&R will cost the state money....

then you point out the \$25,000 appropriation in the bill for fiscal '81. The Secretary of State's office estimates the cost in FY '82 at \$46,100 and in FY '83 at \$53,300. These costs cover the printing of ballots and informational pamphlets, reimbursements to county auditors for signature verification (approximately 25¢/name), office staff and equipment. These costs are based on 15 proposals, of which five are assumed to be successful in attaining a ballot position.

If they challenge a statement about the possibility that monied interests can have undue influence (they will cite California's initiative campaign spending in 1972-76 to the effect that in 8 out of 16 measures, the losers outspent the winners, and in 8 out of 16 the winners outspent the losers - 50-50!)

You cite the same data - point out that if '72 information (there were 10 initiatives) were left out, the statistics wouldn't be so even. Yes, in '72 the losers outspent the winners 7-3, but since then ('73-'76) the trends show the opposite result: the winners outspent the losers 5-1!

I&R has been around for a long time and hasn't ruined representative democracy yet. They will cite that 23 states and D.C. have I&R, and Minnesota is denied that right.

Yes, I&R has been around since the turn of the century. Most states adopted it between 1898 and 1918, and only a few (5) have done so recently. Moreover, one of these - Wyoming - which added I&R in 1968, has never used it (due to very stringent requirements)!

(Source is Paul Murphy, Professor of American History, University of Minnesota, at February, 1978, Focus on I&R:) Most initiative historically didn't solve the basic problems they were designed to solve. It didn't end party bosses or corrupt Legislatures, didn't bring "morality" to government. What I&R did do was weaken Legislatures; however, the power didn't pass from the Legislature to the "people" but to the Executive Branch. It contributed to the growth of commissions, agencies, bureaus, under the Governor's supervision.

People don't trust big Government, bureaucracy, etc.

Bureaucracy is a body of appointed officials (not elected). Bureaus are part of the Executive Branch. I&R cannot be used to solve problems in such agencies. The Executive Branch is practically immune from citizen recourse. Recall and impeachment allow such recourse. Impeachment is provided in the Constitution; recall isn't. a part of Amendment #4. (Source - Paul Murphy)

Studies show that public distrust of government is more related to economic conditions than to the government process. Can I&R solve the problems of inflation and unemployment? NOT LIKELY. The problems are too complex. If I&R can't solve these problems, it can't reduce distrust of government based on the economy. (Source - Citizens League Report)

If proponents question your statements that minorities may suffer...

then you cite attempts in California to repeal fair housing and busing laws. The Urban Coalition and MN Social Services Association oppose I&R. The poor have more access to the Legislature than to the initiative process because it is so expensive to communicate with the entire electorate.

The proposal provides indirect, not direct, initiative.

It depends on the definition of indirect initiative used. Refer them to the National Municipal League proposal. The NML used to recommend direct initiative for state governments, but in 1984 they changed their recommendation to indirect. They use a strict definition of indirect initiative and have recently published a detailed procedure which they recommend for use by states. Point out that the NML was founded by some of the original Progressives back in 1894 (including Theodore Roosevelt). Their goal is governmental reform.

I&R is the ultimate in direct democracy. The people have a right to govern. "The cure for the ills of democracy is more democracy."

Whether the "people" have that right or not is questionable; the framers of the U.S. Constitution didn't address the subject. At any rate, this is a philosophy argument, and it is best to avoid this type. Yes, I&R sound good, but we must base a decision on the facts, not on the philosophy. Since the amendment, if passed, will activate a specific bill (H.F. 2304, Ch. 587), which will have specific effects on Minnesotans. Put in a request to debate the bill and its possible effects, not the philosophy. (Progressive philosophy is so sugar-sweet that you could get a few cavities just repeating some of it!)

Proponents have said LWVMN did not study the present proposal and that puts a "blight" on our position.

As you know, we did not study any of the I&R bills in the Legislature last session. LWV traditionally does not base positions on specific bills. We study issues and reach broad positions which we can then use to act on specific legislative proposals.
