

**CITIZENS LEAGUE STATEMENT**

**THREE PROPOSED AMENDMENTS TO THE MINNESOTA CONSTITUTION**

Prepared by

**Constitutional Amendments Task Force**

**Donald Van Hulzen, Chairman**

Issued by

**Citizens League Board of Directors**

**August 20, 1980**

**Citizens League  
84 South Sixth Street  
Minneapolis, MN 55402  
338-0791**

## INTRODUCTION

The Minnesota Legislature, during the 1980 session, voted to place five state constitutional amendments before the voters on the November 4 election ballot. The amendments pertain to the following subjects:

Reapportionment  
State Campaign Spending Limits  
Limitations on Highway Bonding  
Initiative and Referendum  
Confirmation of Notaries Public

The Citizens League Board of Directors formed a Task Force to analyze the proposed amendments in light of existing League reports and positions and bring a recommendation to the Board.

To carry out its assignment, the Task Force met nine times between June 19 and August 7, 1980. The Task Force studied the amendments, met with several people knowledgeable about the amendments and considered arguments offered for and against each. The Citizens League Board of Directors decided to take a position on three of the amendments. These positions are described in the attached statements.

## REAPPORTIONMENT

**Ballot Question: 'Shall the Minnesota Constitution be amended to transfer from the Legislature to a bipartisan commission the power to draw the boundaries of Legislature and congressional districts? Yes or No?'**

### Recommendations

- Vote 'YES'. A reapportionment commission, not the Legislature should have the responsibility to draw legislative and congressional district boundaries.
- Immediately following ratification of the amendment the secretary of state should activate the open appointments process. This process should be used to fill the five positions on the commission designated for members of the public.

Activation of the open appointments process should not be delayed until the Legislature convenes in January 1981. The Legislature will be very busy between the time it convenes and March 15, when the public members of the commission must be certified by the secretary of state. The secretary should not, therefore, wait for the Legislature to activate the process. The secretary should use the available time to compile a list of applicants for the public positions which can be forwarded to the appropriate legislative appointing authorities as soon as they are named.

- All voters interested in serving as members of the reapportionment commission should submit their names to the secretary of state for consideration by the appropriate appointing authorities.

### Findings and Conclusions

- In 1974 the Citizens League published a report, entitled "Broadening Opportunities for Legislative Service," which recommended that a reapportionment commission be established.
- In 1979 the Citizens League published a report, entitled "Initiative and Referendum . . . No for Minnesota," in which it analyzed the performance of the Minnesota Legislature. The committee found that the Legislature "usually has an extremely difficult time dealing with issues involving its own operations, such as size, salary, per-diem, campaign finance, and particularly, reapportionment."

**Minnesota now has an opportunity to change the way it handles reapportionment and thereby resolve one of these problems.**

- During the 1979-80 legislative session representatives of the Citizens League appeared on several occasions to express support for the reapportionment bill that would place this amendment before the voters and for establishing a reapportionment commission.
- The proposed amendment would relieve the Legislature from the time consuming job of reapportionment, but would enable the Legislature to remain involved in the reapportionment process.

The specific change is almost identical to that recommended by the Citizens League in 1974.

- To increase the likelihood that the five public members of the commission will be effective, independent participants in the reapportionment process these members should be chosen through the open appointments process.

## Background and Discussion

**The amendment is offered as a way to insure reapportionment occurs in a timely and effective manner.**

Today, according to the state constitution, each section of the state is to be represented in the State House of Representatives and Senate, and in the United States Congress, in proportion to each sections' population. Accordingly, the Constitution directs the Legislature to reapportion itself, or redraw legislative and congressional district boundaries to reflect changes in population. The proposed amendment would transfer from the Legislature to a bipartisan commission the responsibility of redrawing the boundaries.

The primary objective in making this change is to relieve the Legislature of the time consuming job of reapportionment and enable the Legislature to spend its time during the session following a census on other legislative matters.

In the past the Legislature has had difficulty reapportioning itself. In fact, between 1913 and 1959 no redistricting occurred in Minnesota. Reapportionment did take place in 1959, 1965, and 1972, but all three times the process was marked by controversy, court disputes and special legislative sessions.

Reapportionment by commission should also increase the likelihood that legislative districts will be drawn in a way that gives candidates from both political parties an opportunity to be elected. When the Legislature reapportions itself, it is more likely that districts will be drawn in a way that favors incumbents.

The Citizens League has, since 1975, been on record in support of establishing a reapportionment commission. In that year the League published a report, entitled "Broaden Opportunities for Legislative Service," which recommended that a reapportionment commission be established. During the 1979-80 Legislative session the League restated its position in favor of establishing a commission.

**The proposal varies from that supported by the Citizens League only in terms of the size of the commission.**

The current proposal is for a commission that would be structured slightly different from that envisioned by the League. Specifically, the proposed commission would include nine members, four appointed by the Legislature and five public members elected by the legislative appointees. The League's committee suggested, that, although there are several different ways to structure a commission, the structure recommended by the Constitutional Study Commission in 1972 appeared reasonable. It would have included 13 members: four legislators (two majority and two minority, appointed by their respective caucuses), two appointees from the Governor, two appointees from the opposition party, and five public members elected by the eight members already designated. The authors of the current proposal started out suggesting this 13 member structure, but dropped the two gubernatorial and two opposition party appointments when Governor Quie objected to having a political party make appointments to a reapportionment commission.

We think the League should continue its support for a reapportionment commission by urging the public to vote 'YES' on this amendment. During our deliberations we did not discover new information about reapportionment not available to the League in the past. Furthermore, we do not think the proposed commission varies in any substantial way from the commissions supported by the League at other times. The difference in the size of the reapportionment commission **proposed and that supported by the League** should not cause the League to change its position. The League's 1974 committee suggested that politics would never be totally eliminated from reapportionment. Its goals were to remove the responsibility from the **body most directly affected by the outcome of the reapportionment**, and permit the Legislature to spend its time in its primary legislative responsibilities. **This amendment will promote these goals.** Furthermore, it represents an opportunity for the state to remedy one of the problems the League's committee on initiative and referendum found with the Legislature, namely, its difficulty with reapportioning itself.

While the proposed amendment merits support, both the Citizens League and the community should be aware that the possibility exists that the four legislative appointees could appoint five people sympathetic to the interests of the legislative appointees and who lacked sufficient knowledge about reapportionment to effectively contribute to the reapportionment process.

Additional public action is needed in order to increase the likelihood that the five public members of the commission will participate in the reapportionment process in an effective, independent manner.

We think an appropriate action would be to use the open appointments process to fill the five positions on the commission designated for members of the public. Today, this process is used to fill positions on approximately 150 agencies and commissions. The process must be followed for all agencies that have state-wide responsibilities. Whenever a vacancy exists on these bodies the secretary of state is notified, and required to publish public notice of the openings in the state register. The secretary also solicits applications through public service announcements on radio, television, and the print media. A three week period is set aside to receive applications, after which time, the secretary sends the names of applicants to the appropriate appointing authority. This process, adopted by the State in 1978, is designed to give the public the broadest possible opportunity for participation in government.

We recommend that this process begin immediately following ratification of the amendment. The secretary of state should not delay activation until the Legislature convenes in January 1981. The Legislature will be very busy between the time it convenes and March 15, when the public members of the commission must be certified by the secretary. The secretary should use all the time available to compile a list of applicants for the commission, which would be forwarded to the legislative appointees for their consideration as soon as they are named.

## CAMPAIGN SPENDING

**Ballot Question: 'Shall the Minnesota Constitution be amended to require campaign spending limits for candidates for executive and legislative offices and public disclosure of campaign spending for all state offices? Yes or No?'**

### Recommendations

- We think this amendment should be defeated. Voters should do so in either of two ways.

One way to do this would be to vote 'NO'.

Voters who, like us, want to express opposition to placing limits on the amount of money candidates can spend should vote 'NO'.

Spending limits do not, as a 1974 Citizens League committee found get to the heart of the problem with campaign finance: the suspicion that accompanies large contributions. The need is for tight limits on contributions, not spending limits.

Another way to defeat the amendment would be to abstain.

Voters who, like us, want to protest the manner in which the amendment has been submitted should abstain. Failure to vote on the amendment will have the same effect as a 'NO' vote.;

This amendment amounts to a referendum on existing statutes. As such it represents a failure of the legislature and the governor to carry out their responsibility to settle issues related to statute. Furthermore, the amendment has been put to voters in a way the legislature would not put a question to itself. The amendment does not offer a simple vote for or against change. Rather, existing statutes will be changed regardless of how the vote comes out.;

### Findings and Conclusions

- A 1974 Citizens League study, entitled 'More Contributors and Smaller Contributions', explained that the main problem with campaign financing is the suspicion that accompanies large contributions from individuals and interest groups.

The League committee that produced the report found that the best way to solve this problem is to put tight limits on contributions and encourage candidates to seek a broad base of support among the electorate.

- The proposed amendment would not adequately address the suspicion problem.

The amendment, if ratified, would continue current policy of providing funds to candidates for legislative and constitutional offices and limiting the spending of those candidates who accept public funding. The amendment would not affect existing limits on contributions.

A recent study by the State Ethical Practices Board found that current state policy has had only mixed results.

The reliance of candidates on large contributions has been reduced for candidates for constitutional offices, but not for candidates for legislative offices.

Other objectives of the current policies, such as reducing the costs of campaigns and encouraging challenges to incumbents, particularly from individuals with new ideas, have not been achieved either.

- The Legislature has offered this amendment in order to change existing laws related to campaign spending.

During the 1979-80 legislative session, the Governor and the Legislature could not reach agreement on how or whether to change its existing laws related to campaign spending. In an attempt to get its preferred measure adopted, the Legislature used its authority to place a constitutional amendment on the ballot without signature of the Governor. It thereby subverted the normal legislative process.

- The Legislature put the question to the voters in a way it would not put a question to itself.

This amendment does not offer a simple vote for or against change, as is inferred in the concept of a referendum. Rather, change will occur in existing statute in any case, with the specific change depending upon the outcome of the vote.

- The ballot question is incomplete:

It gives voters no indication that existing laws will change or of the alternative changes.

- The ballot question is misleading:

It appears that, if ratified, disclosure statutes would be implemented. This is not true. Minnesota already has disclosure statutes. These will remain in place, regardless of the vote on the amendment.

It appears that, if ratified, spending by all candidates would be limited. This is not true. Federal laws permits the public to limit spending by only those candidates who accept public funds.

- We feel this is an inappropriate way for the Legislature to change existing statutes.

Minnesotans elect a governor and legislators to make decisions related to statute. This is a clear case of where the elected representatives are abdicating their responsibilities.

- This amendment should be defeated, either by voting 'NO' or abstaining. Voting 'NO' would effectively express our opposition to placing limits on the amount of money candidates spend. Abstaining would be a way to protest the manner in which the amendment has been submitted. It would effectively send a message to the legislature and the governor that it is properly their responsibility to settle this issue of campaign finance, and that voters will not bail them out of this or other controversial matters of law.

## Background and Discussion

### **Governor and Legislature divided over how and whether to amend existing campaign finance policy.**

Today, Minnesota has a program of providing public funds to help candidates for legislative and constitutional offices run their campaigns. The program is funded by income tax revenue which taxpayers designate to go to a fund for candidates of a particular political party or to a general account from which money is distributed equally to all qualifying candidates, rather than to the State General Fund.

Candidates that elect to receive funds from this program are, by law, limited in the amount of money they can spend in their campaigns. In contrast, candidates that choose not to accept public funding are not limited in their spending.

In the 1980 legislative session, the Governor and the Legislature were divided over whether to remove or increase spending limits and whether to increase the amount of money taxpayers could check off for the public financing program. The Governor favored removing the limits. The Legislature wanted to retain and increase spending limits and increase the amount of money taxpayers could check off. An impasse when the Governor vetoed a bill to increase spending limits.

**The amendment would not adequately address the problem with campaign finance.**

The Citizens League published a report on campaign financing in 1974, entitled 'More Contributors and Smaller Contributions'. The committee came down in favor of two main provisions for campaign finance. The first was full disclosure of campaign spending. (We are glad to see that existing statutes regarding full disclosure will not be changed by this amendment).

The second major message in the report was that the best way to correct the problems with campaign finance was to limit contributions, not spending. The rationale for limiting contributions was that the problem with campaign finance is the suspicion would be relieved by limiting contributions, and thereby encouraging candidates to seek support from a large number of people.

This amendment, if ratified, would continue the state's current policy of providing public funds to candidates for legislative and constitutional offices and limiting their spending. Supporters of this strategy share the major goal of the Citizens League, to reduce the reliance of candidates on large contributions from individuals and special interest groups. They have, however, chosen an approach that is different from that recommended by the League.

A recent study of their approach as embodied in Minnesota's current public financing program, by the State Ethical Practices Board explained that it has had only mixed results. It has not reduced the reliance of candidates for legislative office on large contributions from individuals or interest groups. Furthermore, it has not served the public interest in other ways it ought to, according to the Board. That is to say, it has not reduced the impact of money in campaigns, encouraged challengers to run for office or encouraged individuals with new ideas to run for office.

The Board recommended that the current state policy be changed to remove expenditure limits and place tighter limits on contributions. The Board found that, in practice, current contribution limits are not limiting. They are too high.

The Citizens League's 1974 committee also found that spending limits do not do much to correct another problem they found with campaign finance, namely, where candidates spend their money. The committee felt that the large amounts of money spent on television advertisements and telephone calling did little to inform the electorate about the candidates or the issues. The committee felt that spending limits were not likely to direct the spending of candidates and that other strategies should be adopted.

In summary, both the Citizens League and the State Ethical Practices Board have recommended that a better way to solve the problems associated with campaign finance is to limit contributions, and thereby encourage candidates to seek a broad base of support among the electorate. The amendment does not support this strategy.

**The amendment has been submitted in an inappropriate manner.**

This amendment has been submitted because the Governor and the Legislature could not agree on how or whether to change existing statutes related to campaign finance. The amendment was not necessary to give the authority to change these laws.

After the Governor vetoed a bill to raise spending limits the proponents of this bill in the Legislature began looking for a way to gain its passage without the Governor's support. First, an attempt was made to override the Governor's veto. This failed in the House of Representatives. Next, the campaign finance bill was amended onto the bill on initiative and referendum. (A provision to increase taxpayer check offs was added at this time as well.) Originally, proponents of the campaign finance bill felt this move would insure passage of both bills. For the Legislature has the authority to submit constitutional amendments directly to the people without the Governor's signature. It was soon discovered, however, that the Governor has the authority to veto the implementation language of a bill that includes a constitutional amendment. Therefore, the Governor could have prevented the change in campaign finance laws by vetoing the implementation language in the initiative and referendum bill. Recognizing the apparent inconsistency this would have raised regarding his position on initiative and referendum, the Governor agreed to submit a constitutional amendment on campaign finance to the voters.



We object very strongly to the process that was followed to settle this issue. Indeed, we would be surprised if the statutes that would be enacted if this amendment passes could withstand a constitutional challenge. For the Legislature is not permitted to delegate lawmaking authority to the people. It could be argued that they have done so in this case, calling for a referendum on an existing statute.

Furthermore, we object to the amendment because the legislature has put the question to the people in a way it would not put a question to itself.

This amendment will change existing statutes, as well as the constitution. If the amendment passes existing laws will be changed to double the income tax check off amounts. In addition, spending limits for candidates that take public

funds will be adjusted in general election years to reflect changes in the Consumer Price Index since the preceding election.

If the amendment fails, changes in existing law will also be made. The spending limits on candidates that take public funds will be removed.

In summary, it is not a simple question that asks voters whether they are for or against change in the status quo. Change will occur regardless of the outcome of the vote. We cannot think of any cases where the Legislature puts the question to itself in this manner. Generally, legislators are asked to vote for or against a bill.

In addition, the ballot question is incomplete and misleading:

The ballot question gives no indication that changes in statute will occur or of the alternative changes.

If the voters ratify the amendment one change will occur. If the amendment fails another change will occur. Yet neither change is explained.

The language of the ballot question is misleading, because it appears to indicate that the constitution would be changed to limit spending of all candidates. In fact, it is a violation of the federal constitution to limit expenditures should be considered an expression of free speech, and are not to be limited unless public funding is involved.

Consequently, a 'YES' vote on the amendment will not limit expenditures of all candidates. Indeed, it is unlikely to affect the majority of the candidates. In recent years the number of candidates that decided to take public funds for their campaigns has declined. One objective of supporters of the amendment is to increase the spending limits and the amount of public funds distributed so as to increase the number of candidates that take public funding and who must therefore limit their spending. We are uncertain whether this effect would result, but even if it would we would not change our basic position on this amendment.

Finally, the language of the ballot question makes it appear that, if ratified, the state will require public disclosure of campaign spending for all state offices. In fact, Minnesota already has such laws, and they would remain in place regardless of whether the amendment passes or fails. We understand that the language of disclosure was added to the amendment at the last minute, in the hopes that popularity of disclosure would increase the likelihood of the amendment's approval.

---

Voters could protest the manner in which this amendment has been submitted by abstaining. Doing so will send a message to the Legislature and the Governor that it is properly their responsibility to settle this issue of campaign finance, and that we will not bail them out of this or other controversial matters of law. Voters should be aware that failing to vote on the question has the effect of a 'NO' vote.

## INITIATIVE AND REFERENDUM

**Ballot Question: 'Shall the Minnesota Constitution be amended to provide for initiative and referendum? Yes or No?'**

### Recommendations

- **Vote 'NO'.** Initiative and Referendum should not be adopted.

### Findings and Conclusions

- In 1979 the Citizens League published a report entitled, "Initiative and Referendum . . . No for Minnesota," which explained why initiative and referendum should not be adopted in any form in the state.
- The fact that the proposed amendment includes a sunset provision, and could provide for initiative and referendum on a trial basis, is not justification to change the League's position. The League thought at the time it passed its report that Initiative and Referendum, in any form, was not a good way to make law. We still think so.
- This amendment would give a very small number of people (perhaps 11 people) sponsoring the voter-initiated measure, the formal authority to act as a 'third house' in the Legislature, negotiating with the Senate, the House of Representatives and the Governor over legislation.
- The defects of the current proposal reinforce the Citizens League's original position in opposition to initiative and referendum.

### Background and Discussion

Today, lawmaking powers in Minnesota lie with the Legislature and the Governor, elected representatives of the people. The proposed amendment would give voters the right to initiate legislation, or have existing laws referred for voter repeal, independent of any action by their elected representatives.

In 1979 the Citizens League published a report entitled "Initiative and Referendum . . . No for Minnesota", which outlined the defects that accompany initiative and referendum in any form. Perhaps the most significant defects relates to the process for developing proposals for legislation and making decisions about these proposals.

**Initiative and referendum would close the public out of much of the lawmaking process.**

Today the legislative system of lawmaking provides a process for drafting, amending, and taking final action on laws that is open to the public. In contrast, developing proposals through initiative and referendum can be closed and private. Furthermore, once proposals are offered and placed on the ballot there is no opportunity for amendment.

The League committee also concluded that initiative and referendum campaigns are particularly vulnerable to exploitation by special interest groups. Wealthy, well-organized interest groups gain a disproportionate advantage in determining the outcome of ballot issue elections.

Our task force did not attempt to redo the work of the League's 1979 committee. Rather we looked at the specific proposal that will be offered to the voters on November 4 in light of the League's previous work. We concluded that the proposal includes many of the defects highlighted by the League's committee.

**Initiative and referendum could remove the Governor and Legislature from the lawmaking process too.**

Under the proposed plan neither the Governor nor the Legislature need to participate in the lawmaking process. Voter initiated measures could be placed on the ballot when a petition is submitted containing signatures from voters in each congressional district in the state, equaling at least 5% of the voters in those districts in the last general election. Neither the governor nor the Legislature would have to act before the question is placed before the voters. Furthermore, the Governor would have no power to approve or veto an initiative or referendum measure adopted by the voters. Finally, a law adopted by initiative could not be subject to repeal and no law repealed by the voters could be reenacted by the Legislature until after another general election.

The proposed amendment would give the Legislature the opportunity to respond to a voter-initiated measure. The Legislature could, for example, repeal a law which might otherwise be submitted to referendum. The Legislature could pass a new law in response to a voter-initiated measure. As another alternative, the Legislature could place its own measure on the ballot (provided the committee sponsoring the measure has not abandoned its measure before the Legislature acts and the Governor has signed the Legislature's response.)

**The amendment could create a third house in the Legislature.**

Clearly, however, the amendment would put the sponsoring committee in the drivers seat in the lawmaking process in all cases where the Legislature or Governor wanted to keep a voter-initiated measure off the ballot. In some instances, it would give a very small group of people the power to act as a 'third house' in the Legislature. The sponsoring committee could, with petition in hand, negotiate with the Senate, House of Representatives and the Governor over an appropriate legislative response to a voter-initiated measure. If the sponsoring committee was satisfied with the Legislature's action it could withdraw its petition (as long as it is acted before June 1). In such a case the Legislature's response would become law. If the sponsoring committee decided not to withdraw its petition, then the voter initiated measure would go on the ballot, regardless of whether the Legislature or Governor wanted this.

The potential for a very few people to control the legislative process is increased by the fact that 80% of the sponsoring committee members must agree before the sponsoring committee can abandon its proposal. Consequently, if the sponsoring committee includes 50 people (the minimum size for a committee), 11 people could control the action of the sponsors and the legislative process.

**The sunset provision does not justify adoption.**

The proposed amendment includes a sunset provision, repealing itself on January 1, 1985, unless the Legislature places an amendment on the ballot before then giving the voters the opportunity to retain it as a provision in the constitution. We do not think this sunset provision justifies adoption of the amendment. The League concluded at the time it issued its original report that initiative and referendum, in any form, was not a good way to make law. We still think so. Furthermore, we question whether the sunset provision would ever actually take affect. It seems more likely to us that, in 1985, continuation of initiative and referendum will become a political issue similar in character to passage of this amendment, with legislators who oppose continuation being accused of wanting to withdraw power from the people. Consequently, voters should not assume that the sunset provision gives them a chance to try initiative and referendum on a temporary basis.

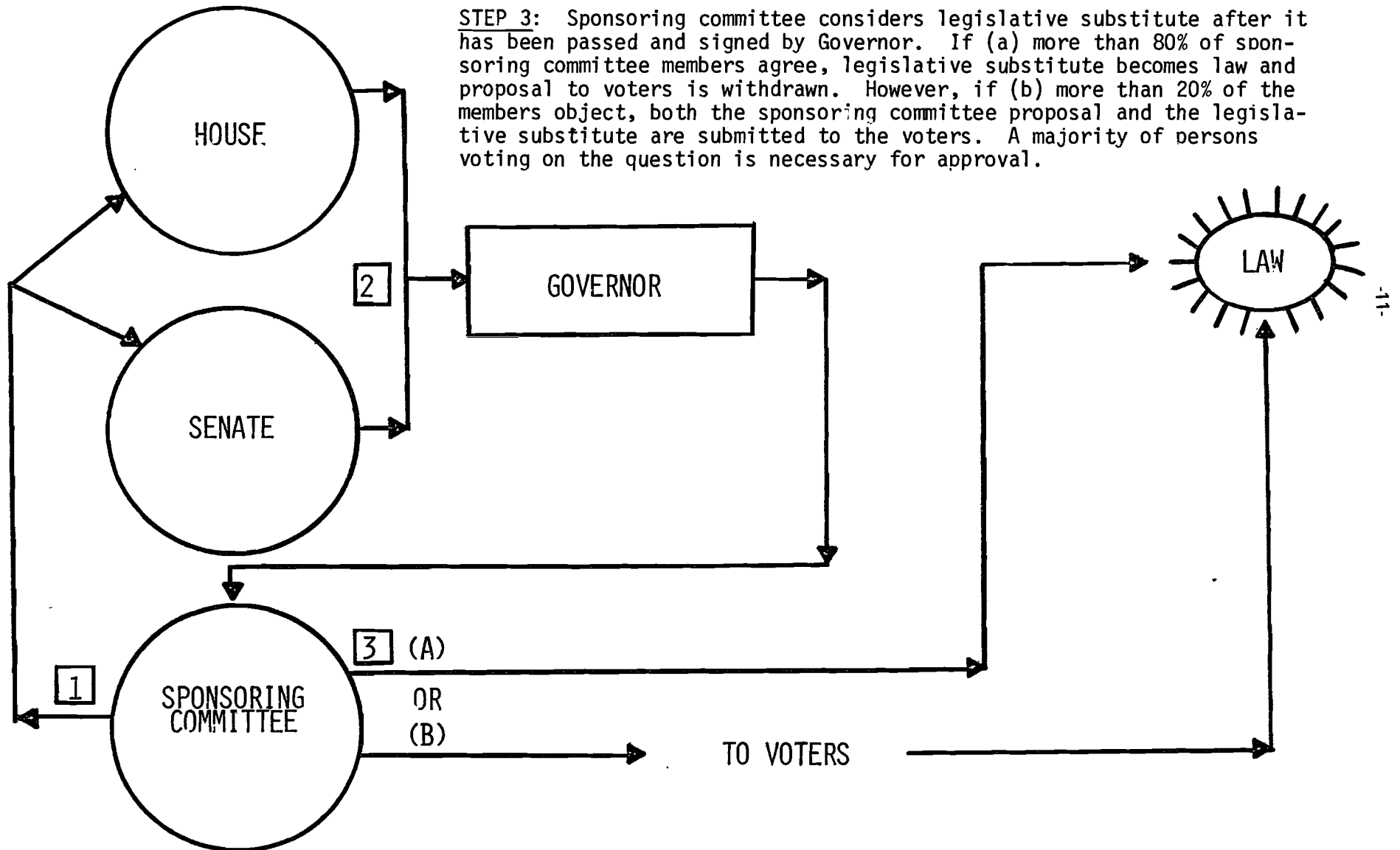
\* \* \* \* \*

## THE PROPOSED MINNESOTA TRI-CAMERAL

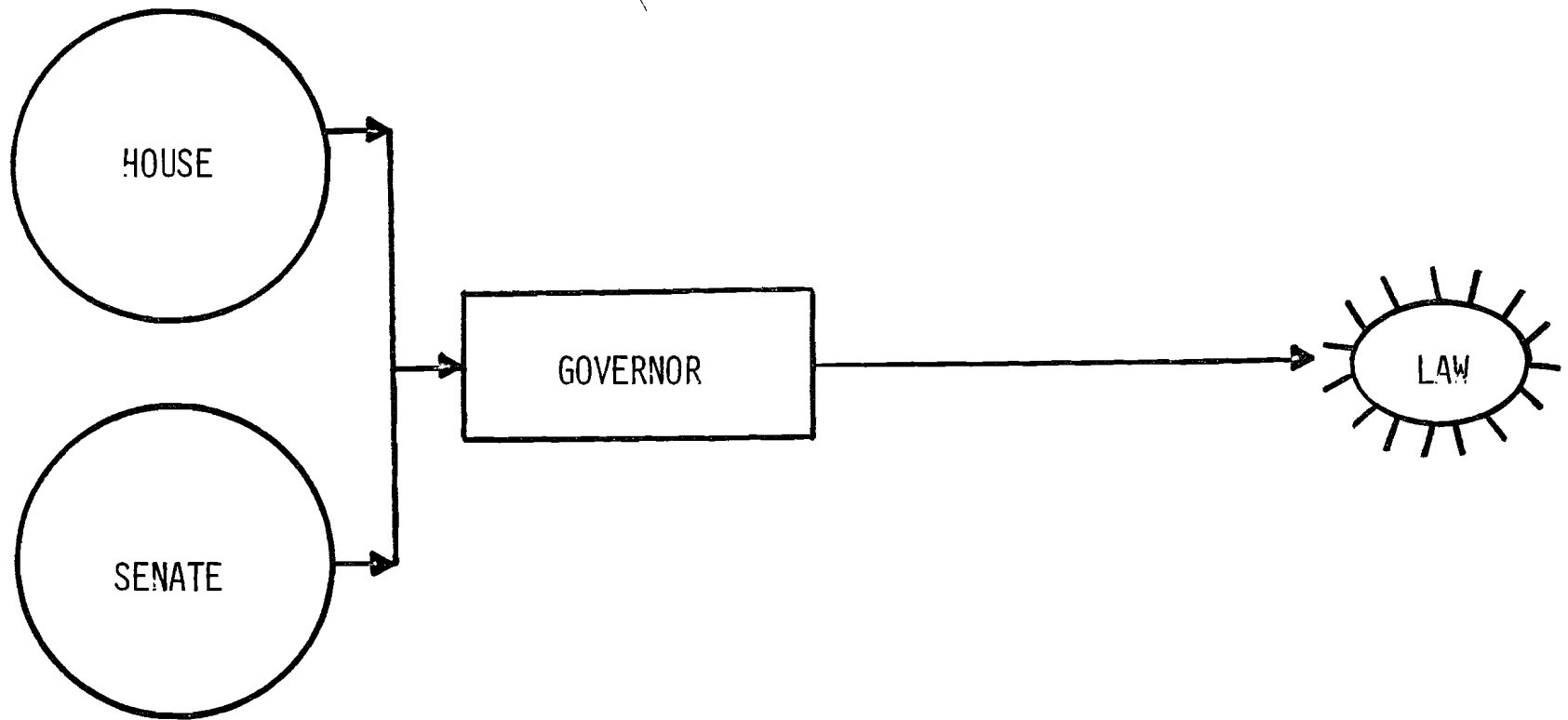
STEP 1: Sponsoring committee circulates petitions to present initiative/referendum measure to voters. If successful, sponsoring committee proposal is brought to Legislature for response, before going to voters.

STEP 2: Sponsoring committee negotiates with House, Senate and Governor over whether a legislative substitute will be sufficient for sponsoring committee to withdraw its proposal.

STEP 3: Sponsoring committee considers legislative substitute after it has been passed and signed by Governor. If (a) more than 80% of sponsoring committee members agree, legislative substitute becomes law and proposal to voters is withdrawn. However, if (b) more than 20% of the members object, both the sponsoring committee proposal and the legislative substitute are submitted to the voters. A majority of persons voting on the question is necessary for approval.



# EXISTING LAW-MAKING PROCESS IN MINNESOTA



Members of the Task Force that developed these statements included:

Don VanHulzen, Chairman  
Charles Backstrom  
Debra Pukall Christenson

James Dinerstein  
Ruth Hauge  
Betty Kane  
Louise Kuderling

Barbara Lukerman  
Glen Skovholt  
Margo Stark

Resource guests who met with the committee to discuss these amendments included:

- Clarence Shallbetter, Citizens League Committee on Campaign Finance  
B. Kristine Johnson, Chairman of Citizens League Committee on Initiative and Referendum  
Senator William Luther, Brooklyn Center  
Senator Jack Davies, Minneapolis  
Steven Cross, Revisor of Statutes  
Allan Williams, Senate Counsel  
B. Allen Clutter, former executive director, State Ethical Practices Board  
(presently Director, Federal Elections Commission)  
Richard Braun, Commissioner, Minnesota Department of Transportation  
Wayne Burggraaff, Commissioner, Minnesota Department of Finance  
Edward Hunter, Deputy Commissioner, Minnesota Department of Finance  
Edward Cahoon, Budget Director, Minnesota Department of Transportation

Relevant Citizens League reports include:

'Broadening Opportunities for Legislative Service,' May 1, 1975  
'More Contributors and Smaller Contributions,' December 11, 1974  
'Initiative and Referendum . . . No for Minnesota,' February 28, 1979