



NCSL Task Force on Initiative & Referendum Executive Summary

By Sarah McDonald

The National Conference of State Legislatures (NCSL) is a bipartisan group founded in 1975. They took up the study of Initiative and Referendum late in 2001. This is a distillation of their recommendations. Their complete report is listed in our bibliography.

The basic recommendation was that states that do not have I&R should not adopt it. The feeling was that the possibility for abuse outweighed the advantages.

The Task Force urged states that were considering such change to give preference allowing citizen participation without the constraints of constitutional or statutory language.

34 recommendations came out of the study. They acknowledge that the initiative process has evolved into something too easily exploited by special interests.

For those states that have I&R, they recommend the following: reformation of the following:

1. Reformation of the drafting, certification, signature-gathering and financial disclosure processes.
2. Adherence to single subject rules.
3. Improved voter education.
4. Initiatives only on general election ballots.

Here is a breakdown of the 34 recommendations contained in eight areas. (The abbreviation IP, for initiative process, shall be used from here on.)

- I. General Recommendations.
 - A. Adopt an advisory initiative or a general policy initiative.
 - B. If neither of the above are adopted, use the indirect IP.
 - C. If the direct IP is adopted, make it a statutory, not a constitutional amendment IP.
 - D. If a constitutional amendment IP is adopted, a statutory one should also be adopted.

- II. Legislative Involvement in IP.
 - A. States that have a direct IP should consider adopting an indirect IP and encourage its use.

- B. After a specified percentage of signatures have been public hearings on the issue.
 - C. When appropriate, the legislature should place an alternative referral on the ballot.
- III. Subject Matter of Initiatives.
- A. States should encourage statutory initiatives rather than constitutional ones.
 - B. States should adopt the single subject rule.
 - C. If a measure is rejected by voters, it should not be allowed to be reintroduced for a certain period of time.
- IV. Drafting and Certification.
- A. States should require a review of initiative language by either the legislature or an appropriate state agency.
 - B. States should require drafting and certification of a ballot title and summary.
 - C. A fiscal impact statement should be required.
 - D. States should establish a review process in which the public can challenge technical matters such as proper ballot titles.
- V. Signature-Gathering.
- A. Initiative proponents should be required to file a statement of organization before any signatures are collected.
 - B. There should be safeguards against fraud:
 1. No giving or accepting money or things of value in exchange for signing or not signing a petition.
 2. Require an oath by gatherers that they witnessed the signing and that the signature is valid.
 3. Gatherers must disclose whether they are paid.
 - B. There should be an adequate, but limited time period for gathering signatures.
 - C. Signatures should be valid for a specified period of time.
 - D. Constitutional amendments should require a higher number of signatures than statutes.
 - E. Signatures must be gathered from more than one area of the state.
 - F. There should be an established procedure for verification that the required number of valid signatures have been collected.

VI. Voter Education.

- A. A manual describing the I&R process should be provided to the public by the state.
- B. States should encourage public education and discourse on ballot measures.
- C. States should produce and distribute information about each certified ballot measure.
- D. Alternatives to printed materials should be made available.

VII. Financial Disclosure.

- A. Financial disclosures should be required of any person or group that collects or spends money over a threshold amount for or against a ballot measure.
- B. After certification, a statement of organization should be filed by proponents or opponents before the collection of monies.
- C. Disclosure requirements for initiative campaigns should be the same as for candidate campaigns.
- D. Public funds should not be allowed to be used for or against a ballot measure.

VIII. Voting.

- A. Initiatives should appear only on general ballots.
- B. A higher vote threshold should be required for a constitutional amendment than for a statute.
- C. Any initiative measure that requires a special vote on for the passage of future measures, should require that it be adopted by that same special vote.
- D. Statutes should require the same vote threshold as is required when the legislature passes the same type of statute.
- E. There should be a procedure for determining which measure prevails when two or more measures approved by voters are in conflict.

Source:

Initiative and Referendum in the 21st Century: Final Report and Recommendations of the National Conference of State Legislature Initiative and Referendum Task Force, July 2002
http://www.ncsl.org/programs/legismgt/irtaskfc/final_report.htm#execsum