



# Ballot Initiatives and Referendums

## Executive Summary

Initiative petitions and referendums allow voters the opportunity to be directly involved in the policymaking process. Twenty-four states in the U.S. implement an initiative process and 23 states have a referendum process. Initiatives can have long-lasting effects, and some states, including Missouri, allow for constitutional amendments as well as additions to statute via this process. Research has attempted to understand whether the initiative and referendum processes accurately reflect majority opinion and their effects on policy.

## Highlights

- States with initiative processes are found to spend and tax their citizens 5% less than states without an initiative process.
- States with an initiative process are much more likely to impose term limits on legislators and the governor than states without an initiative process.
- \$1.2 billion was spent nationwide on ballot committees that support or oppose ballots in 2020.
  - Business groups are found to be more likely to oppose initiatives than support them.

## Limitations

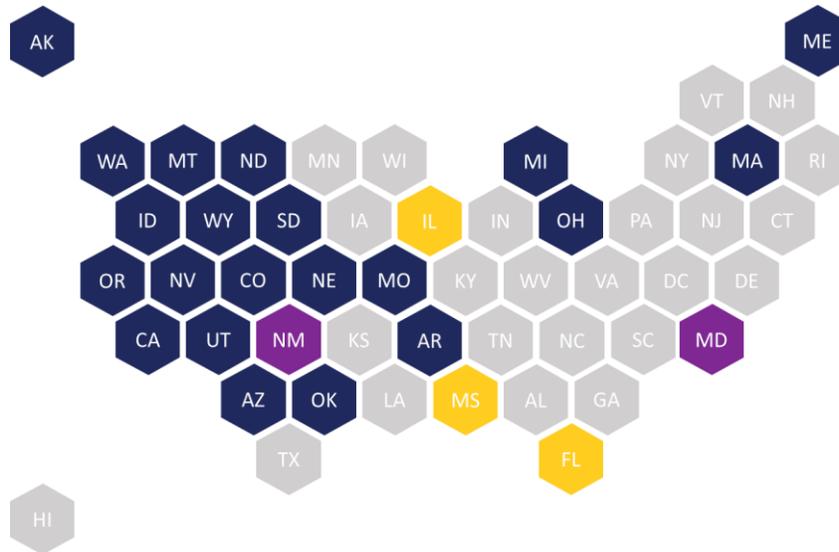
- Existing evidence suggests that initiatives typically align policy outcomes with public opinion. However, more research is needed to come to a definitive conclusion.
- Older research on the effects of the initiative process and referendums use out of date analytical research methods. New research is needed to come to stronger conclusions on these findings.

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## Research Background

### The Initiative and Referendum Process in the United States

There are two opportunities for citizens to be directly involved in the policymaking process. The citizen initiative process allows citizens to place proposed statutes and/or constitutional amendments directly on the ballot for popular vote. Popular referendums allow voters a chance to approve or repeal an act of the legislature. These opportunities vary by state (Fig. 1). The section below summarizes information compiled by the National Conference of State Legislatures.<sup>1</sup> For more information, see their [website](#).



**Figure 1.** States with initiatives (gold), referendums (purple), or both (navy). Figure created with data from NCSL.<sup>1</sup>

### Initiative Process

Twenty-four states have an initiative process (Fig. 1). Eighteen states allow initiative petitions to place constitutional amendments on the ballot, while 21 states allow initiative petitions to introduce statutory changes onto the ballot.<sup>2</sup> The initiative petition process can be divided into two categories: indirect or direct. *Indirect* initiatives are referred to the state legislature after sufficient signatures are collected for a successful petition process. The legislature may then enact, appeal, or defeat the measure. If the legislature does not enact the measure, proponents may pursue placement of the measure on the ballot for a popular vote. In three states ([Massachusetts](#), [Ohio](#), and [Utah](#)), additional signatures from voters are required for the measure to go onto the ballot. In other states, additional voter signatures are not required and the measure is automatically placed on the ballot. *Direct* initiatives go directly on the ballot after a successful initiative petition.

States vary in the level of review that petitions undergo before signature collection. Seventeen states require at least one government official to draft or review the title and summary of a petition. In Missouri, the secretary of state prepares a petition summary that then must be approved by the attorney general ([RSMo 116.334](#)).

Those who physically go out and collect signatures for a petition are known as circulators. There are different requirements for circulators, but common requirements include that they must be at least 18 years old, a citizen, a registered voter, and that they must be a resident of the state. In Missouri, circulators must be 18 years old, a registered voter, and cannot have been convicted of or plead guilty to crimes involving forgery ([RSMo 116.080](#)). Several states have tried to ban

payment for circulators based on a per signature basis, or payment of circulators in general. Most of these bans failed when confronted in the courts.

Fifteen states, including Missouri ([MO Const. III Section 50](#)), require initiative petitions to follow a single-subject rule. Some states also have other restrictions, which may include specific voter thresholds for certain topics, or the number of sections of statute code or the constitution that may be altered. In Missouri, initiatives cannot be used for the appropriation of money, other than new revenues which are created and provided for ([MO Const. III Section 51](#)). Petitions which amend the Missouri constitution may only amend one article of the constitution ([MO Const. III Section 50](#)). Seven states do not have any restrictions as to what can be in an initiative, aside from single-subject rules. If a measure fails, 17 states, including Missouri, do not have restrictions on when a measure may be attempted again. Seven states have explicit time limits before a measure can be tried again.

For a petition to make it to the ballot in Missouri, a petition proposing statutes must be signed by 5% of voters in two-thirds of the congressional districts in the state, and 8% of voters for constitutional amendments ([MO Const. III Section 50](#)). The signature threshold varies state by state, from a low of 3% of the total votes cast for governor in the preceding state election in Massachusetts,<sup>3</sup> to 15% of total ballots cast in the previous general election in Wyoming ([Const. Art. 3, § 52](#)).

Thirteen states including Missouri require a simple majority for a ballot measure to be passed. Other states have special rules. For instance, four states ([Massachusetts](#), [Mississippi](#), [Nebraska](#), and [Wyoming](#)) require that in addition to a majority for a ballot measure to pass, the measure must be voted on by a certain percentage of total voters who voted in that election.

### Referendum Process

Twenty-three states have a popular referendum process (Fig. 1). Four states do not have any restrictions on what laws can be subject to referendum. The other 19 states have subject matter limitations. In Missouri ([Const. III Section 52\(a\)](#)), referendums may not be ordered for laws necessary for the immediate preservation of public peace, health or safety, and laws making appropriations for the current expenses of the state government, the maintenance of state institutions, or for the support of public schools. For a referendum petition to make it to the ballot in Missouri, 5% of legal voters in two-thirds of congressional districts must sign the petition.

All 23 states require a simple majority to pass a popular referendum. Five states include an additional threshold, requiring that the total votes cast for the measure must equal a minimum percentage of the total votes cast in that election.

All 23 states with a popular referendum process require that organizations that support or oppose ballot measures, often called political action committees, follow campaign finance laws. In Missouri, organizations must file a statement of organization within 20 days after the formation of the committee ([RsMO 130.021](#)). Committees must also disclose financial statements including

contributions and expenditures on the eighth day before an election, the thirtieth day after an election, and no later than the fifteenth day following the close of each calendar quarter ([RsMO 130.046](#)).

In a referendum on elected officials, some states allow for recall elections to remove an elected official from office. Nineteen states including Kansas and Illinois permit the recall of state officials. Generally, this process involves collecting a certain amount of signatures in a certain amount of time. Other details vary state to state.

### **Alignment of Initiative Petitions, Referendums, and Public Opinion**

Older research investigating the effects of ballot initiatives and referendums were conducted before recent methods were developed that are better at determining causation, rather than correlation.<sup>4</sup> Given this, there are varying degrees of confidence with respect to the conclusions of the effects of initiatives and referendums. Recent research using newer data analysis methods have generally reinforced previous findings.

#### Alignment of Initiative and Referendum Measures with the Public

Research investigating whether or not initiatives and referendums make policy more or less responsive to voters does not provide many definitive answers. Part of the reason for this is the difficulty in determining the alignment of policies with voter preferences.<sup>4</sup> In 2010, research on this subject found that overall, states with initiatives passed laws that aligned with the majority opinion 18-19% more often than states without initiatives.<sup>5</sup> Comparatively, in 2012, another study considered a larger set of policies in their analysis, and no correlation was found between policy alignment with voters.<sup>6</sup> However, when the set of policies in the 2012 study was restricted to the 2010 set of policies studied, policies in initiative states were 11-15% more aligned with majority voters.<sup>4</sup> However, a limitation to this finding is the lack of a clear distinction between the sets of policies, so this result is not well understood.

#### The Influence of Money

Contributions to ballot measure committees that supported or opposed ballot measures in elections in 2020 totaled \$1.2 billion nationwide.<sup>7</sup> Researchers have attempted to investigate the influence of money on the passage of ballot measures. Recent research finds that spending in support and against ballot measures have strong effects, and that the campaigning of support interest groups may be as productive as that of opposing interest groups.<sup>8-10</sup>

Despite this large amount of spending, a November 2021 working paper finds evidence suggesting that large amounts of spending in the initiative and referendum processes do not help corporations gain a significant advantage when it comes to passing favorable legislation.<sup>11</sup> Between 1904-2020, anti-business initiatives were more common than pro-business initiatives, and an analysis of California initiatives from 2000-2020 showed that business groups opposed

initiatives more often than they supported them. It has been suggested that business spending is primarily defensive, trying to defeat initiatives rather than pass them.

## **The Effects of Initiative Petitions and Referendums on Public Policy**

### Fiscal Policy

A literature survey of research on the effects of initiatives and referendums from 1960-2002 found that states with initiatives spend and tax about 5% less than states without an initiative process.<sup>4</sup> An explanation proposed that voter fiscal attitudes shifted faster than their government, and voters eventually pushed policy into a more fiscally conservative direction. The same literature survey also finds that states and cities with initiatives raise less money from taxes, but raise more money from fees and charges for services. It is also found that most studies find small and statistically insignificant differences in the debts and deficits between initiative and non-initiative states.

### Social Policy

Initiative states are more likely to adopt conservative social policies.<sup>4</sup> They are more likely to require parental notification of abortions by minors, have more restrictive abortion rules, favor capital punishment, and ban same-sex marriage. One study indicated that on a set of eight social policy issues, initiative states were 12% more likely to favor a conservative policy.<sup>4</sup> However, it is difficult to rule out that this may be due to differences in regional American culture.

### Government and Elections

The strongest finding of the effect of the initiative process on the state government and electoral process is with regards to term limits. Since 1990, 21 of the 24 initiative states implemented legislative term limits which were all adopted by an initiative.<sup>4</sup> Only two of the 26 non-initiative states adopted legislative term limits in the same time period. Opinion polls show there is majority support for term limits in all states, so this difference can not be explained by preferential differences between states.

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