

Of the People, By the People, For the People

A 2010 Report Card on Statewide Voter Initiative Rights

Executive Summary

For over a century, the initiative and referendum process has given voters a greater voice in their government. The right to initiative is recognized by 24 states, as well as thousands of local jurisdictions all across the country. These processes operate under widely varying laws, rules, regulations, and restrictions, so that the petition rights of citizens in one state may be quite different — and far less secure — than the rights of citizens in another state.

Citizens in Charge Foundation believes that citizens everywhere must have a say in their state and local governments through a system of initiative and referendum that is open and accessible to the average person. Furthermore, the right to petition our government should be interpreted broadly with an eye toward allowing access to voters and honoring their will.

Attempts to restrict initiative and referendum rights by putting up barriers to how petition signatures can be collected, who can work for petition campaigns, and how campaign workers can be paid should be rejected. Indeed, courts have regu-

larly struck down such barriers as violations of First Amendment rights.

Citizens need ample time to collect signatures on a petition, and the required number of signatures should be low enough that grassroots efforts have a chance at successfully making the ballot. Attempts to decrease the amount of time available or raise the number of signatures required should also be rejected. Fundamentally, any attempt to restrict the ability of the people to use the initiative and referendum process undermines our basic democratic principle that government be of, by, and for the people.

Citizens in Charge Foundation has created this report card to give a clearer picture of the extent to which residents of various states have the ability to affect their government through the initiative and referendum process. The startlingly low grades received by a majority of the states should serve as a rallying point for citizens around the country. Even the relatively higher grades of what might be called “the initiative states” show, in most cases, major room for improvement.

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Citizens in Charge Foundation is the only national transpartisan voter rights group dedicated to protecting and expanding the ballot initiative and referendum process.

For more information visit: www.CitizensInCharge.org.

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January 2010

Introduction

As governments have grown at local, metropolitan, state, and federal levels, the power of entrenched factions has also grown, *vis-à-vis* the citizenry. Traditional representative government has proven unreliable in restraining itself constitutionally, often to the point of uniting all branches of America's distributed powers against the very people it was meant to serve. Institutions of citizen-led democracy have evolved to help restore this balance of power, in effect fulfilling a basic promise of republican governance: *The right to petition government*. Initiative and referendum thus serve as an expansion and perfection of one of the most basic principles of a limited republic.

Though the right to petition government has several centuries of development, and institutionalized rights to initiative and referendum just over a century of practice in this country, these mechanisms are by no means universal throughout the United States.

This first annual report by Citizens in Charge Foundation finds that most of the 24 states with some form of statewide initiative rights received a grade no higher than a C. These states recognize varying levels of petitioning rights, and most place restrictions against those engaged in the process that lower their grade. Some states — such as Missouri and Ohio — have robust processes with few restrictions, earning them A grades. At the other end of the spectrum, Wyoming recognizes statewide statutory initiative and referendum rights, but lacks a process to amend the state constitution through initiative. Wyoming's limited process, along with the many restrictions placed on petition

gathering by the state legislature, earns Wyoming an F.

States that don't recognize any statewide form of petition rights all receive failing grades of D or F. While many of these states do recognize local petitioning rights, the failure to provide citizens the ability to propose either statewide statutes or constitutional amendments means citizens are denied the means to effectively control the state government to which local governments are legally subservient.

Citizens in Charge Foundation hopes that these grades will be used as a guide to help citizens and lawmakers bring more openness and accessibility to every state with an initiative and referendum process, and encourage those states without statewide initiative and referendum to provide citizens with these powers.

Method

In order to draw appropriate comparisons across all 50 states, Citizens in Charge Foundation looked at the most prominent and consistent factors affecting the people's ability to petition government. Examining state constitutions and legal codes, we looked at what outlets for citizen-led government were provided — statewide citizen-initiated constitutional amendment, statewide statutory initiative, statewide referendum, the existence of a local initiative and referendum process, and the breadth of local processes — and awarded points accordingly.

We then noted the restrictions that states have placed in the way of citizens petitioning their

government — short circulation periods, high signature requirements, bans on campaign workers from other states circulating petitions, bans or limitations on paying campaign workers who circulate petitions by the number of signatures they collect, and requirements that petitions be circulated according to a geographical/political distribution — and deducted points for each restriction.

Some states suffer from very unique barriers to the petition process, which for comparison purposes were not calculated in their grade, but are noted at the end of their state report.

Points were added as follows:

Constitutional Amendment—3 points

States that allow citizens to propose amendments to the state constitution through a petition process were awarded three points. A constitution is the fundamental contract by which citizens establish their government and citizens should have the power to propose changes to be voted on by the people. Providing citizens with a process for initiating constitutional amendments upholds the fundamental principle of government by the consent of the governed.

Statutory Initiative—3 points

States that allow citizens to propose statutory measures through a petition process were awarded three points. This process allows citizens to propose simple statutes to be voted on by the people. States vary on whether such a voter-enacted statute can be amended or repealed by the state legislature, but in most cases, legislatures are able to make changes to initiative statutes.

Referendum—2 points

States that allow citizens to call a statewide referendum — or People’s Veto — through the petition process were given two points. A referendum allows citizens to delay the implementation of a law passed by the legislature* until an elec-

*Wyoming is the only state where a referendum petition does not delay implementation of a legislative statute until an election to decide the matter is held.

tion can be held whereby voters can either approve or reject the act passed by the legislature. As a reaction to an act by the state legislature, the referendum is more limited than the initiative.

Local Initiative—3 possible points

States where citizens in certain municipalities or other local jurisdictions enjoy the powers of initiative and/or referendum were given one point. Local initiatives give citizens the power to affect laws and initiate government reforms close to home. Two additional points were given to states where over half the population has access to a local initiative or referendum process.

Points were subtracted for the following restrictions:

Residency Requirement—1 point deducted

States that ban non-residents from gathering petition signatures for initiatives and referendums lost a point. This restriction prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Residency requirements have generally been struck down by federal courts as unconstitutional violations of First Amendment rights, but remain on the books in 14 states (and have been enacted in recent years in Montana, Nebraska and South Dakota).

Pay-Per-Signature Ban—1 point deducted

States that ban or limit paying campaign workers who collect signatures on a petition based on the number of signatures they collect, or otherwise restrict how campaign workers can be paid, lost a point. Payment-per-signature allows citizens greater certainty in judging the cost of a petition effort. Moreover, in states that have passed such bans, the cost of successfully completing a petition drive has risen considerably, sometimes more than doubling. Federal courts have struck down these bans in five different states.

Distribution Requirement—½ point deducted

States that require petition signatures to be collected within, or distributed over, a certain number of subdivisions in the state lost a half point. Distribution requirements increase the complexity of qualifying a measure, thus driving up the cost and difficulty. When distribution requirements are based on geographic boundaries, rather than population-based, forcing signatures to be collected in sparsely populated areas, the costs are further increased. Federal courts have universally struck down non-population-based distribution requirements as violations of the Constitution's equal protection clause—the “one man, one vote” principle.

Insufficient Circulation Period (Constitutional Amendments)—½ - 1 point deducted

Petition sponsors need ample time to collect the tens of thousands, hundreds of thousands, or in some cases more than a million signatures needed to qualify a measure for the ballot. Short circulation periods make it nearly impossible for grassroots volunteer efforts to qualify a ballot measure. We deducted a half point from states with circulation periods for constitutional amendments of less than nine months but more than five months, and we deducted a full point from states with circulation periods of less than five months.

Insufficient Circulation Period (Statutory Initiatives)—½ - 1 point deducted

Petition sponsors need ample time to collect the signatures needed to qualify a statutory initiative for the ballot. Short circulation periods make it nearly impossible for grassroots volunteer efforts to qualify measures. We deducted a half point from states with circulation periods for statutory initiatives of less than nine months but more than five months, and we deducted a full point from states with circulation periods of less than five months.

High Signature Requirement (Constitutional Amendments)—½ - 1 point deducted

High signature requirements make it very difficult to qualify initiatives for the ballot, and nearly impossible for grassroots volunteer campaigns to qualify. We deducted a half point from states that required signatures of more than 8 percent of the number of voters (in the last election for statewide office) to qualify a constitutional amendment for the ballot. We deducted one point from states with signature requirements above 10 percent.

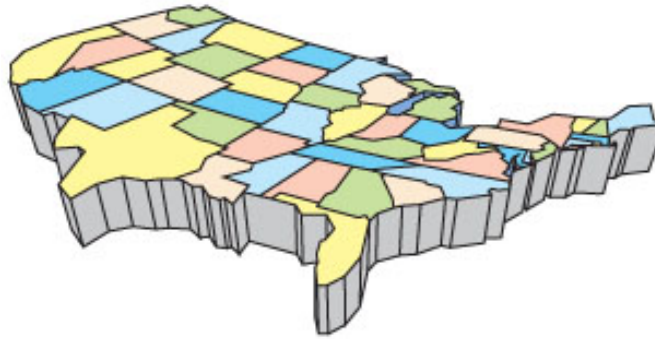
High Signature Requirement (Statutory Initiatives)—½ - 1 point deducted

High signature requirements make it very difficult to qualify initiatives for the ballot, and make it nearly impossible for grassroots volunteer campaigns to qualify. We deducted a half point from states that required signatures of more than 5 percent of the number of voters (in the last election for statewide office) to qualify a statutory initiative for the ballot. We deducted a full point from states with signature requirements above 8 percent.

Scope

In assigning and subtracting points, only the laws in place as of December 2009 were considered. The factors selected for grading were both uniform across the states and had a significant effect on the ability of average citizens to use the petition process. Oftentimes, factors other than those listed in this report affect the process, but vary so widely among states that including them would call for subjective judgments. In cases where these other factors have a major impact on the ability of citizens to petition their state government, we have made note of them under the “Additional Notes” section at the end of that state's report.

Grade Scale & Comparison of the Fifty States and D.C.



Alabama	F
Alaska	D
Arizona	C+
Arkansas	B+
California	B+
Colorado	C+
Connecticut	D
Delaware	F
Florida	C-
Georgia	D
Hawaii	D
Idaho	C
Illinois	D
Indiana	F
Iowa	F
Kansas	D
Kentucky	F
Louisiana	D
Maine	C
Maryland	D
Massachusetts	C-
Michigan	B
Minnesota	D
Mississippi	F
Missouri	A-
Montana	C+
Nebraska	C

Nevada	B+
New Hampshire	D
New Jersey	D
New York	D
North Carolina	F
New Mexico	D
North Dakota	C+
Ohio	A-
Oklahoma	C+
Oregon	B
Pennsylvania	F
Rhode Island	D
South Carolina	D
South Dakota	B
Tennessee	D
Texas	D
Utah	C-
Vermont	D
Virginia	F
Washington	C+
West Virginia	F
Wisconsin	D
Wyoming	F
District of Columbia*	D

Grading Scale

A	= 11 points
A-	= 10 points
B+	= 9 points
B	= 8 points
C+	= 7 points
C	= 6 points
C-	= 5 points
D	= 3-4 points
D-	= 1-2 points
F	= 0-1 points

* The District of Columbia, which is not a state, is included because it has District-wide initiative and referendum rights. It is presented as the last page in this report, following the alphabetical listing of the states.

Alabama



Alabama citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

Alabama's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Alabama municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



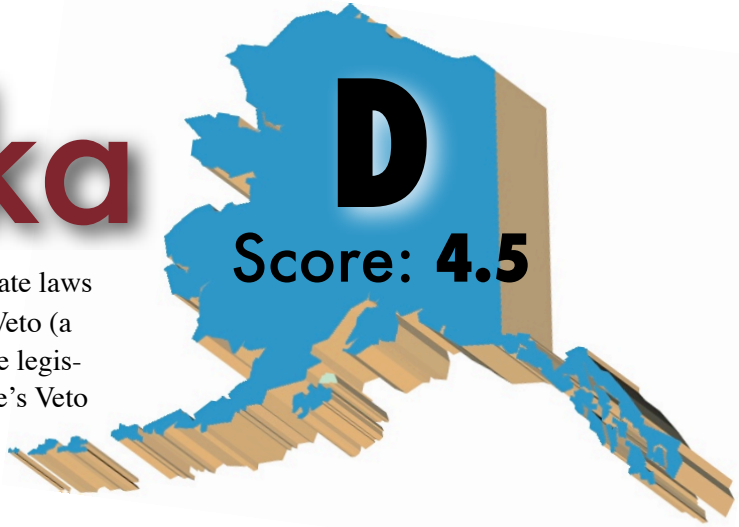
To improve its score, Alabama should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Alabama could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Alabama could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Alabama could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Alabama could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

Alaska

D
Score: 4.5



Alaska citizens enjoy the right to propose state laws (statutes) by petition and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a state law or People's Veto on the ballot, citizens must collect the signatures of Alaska registered voters, equal to 10 percent of the votes cast in the last statewide election — currently 32,474. Alaskans have no process to propose amendments to the state constitution by initiative..

Alaska's Initiative & Referendum Rights



Statutory Initiative—3 points

Alaska's state constitution authorizes citizens to propose simple statutes through the petition process. Alaska receives three points. (Alaska Constitution, Article XI §1-7)

Referendum—2 points

Alaska's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject acts passed by the legislature. Alaska receives two points. (Alaska Constitution, Article XI §1 & 5)

Local Initiative—3 points

Residents of Alaska municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes and two additional points because the local initiative is available to most Alaskans. (AS, 29.26.100)

Restrictions on Alaska's Initiative & Referendum Rights

Residency Requirement—1 point deducted

Alaska bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (AS, 15.45.105.03)

Distribution Requirement—½ point deducted

In addition to gathering petition signatures from 10 percent of the voters in the last statewide election, Alaska requires that signatures must come from three-fourths of the state's House districts, equal to 7 percent of the vote in each district. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Alaska Constitution, Article XI §3)

Payment Restriction—1 point deducted

Alaska limits the pay a person circulating a petition can receive to no more than \$1 per petition signature gathered. This artificial cap on pay makes it harder for campaigns to recruit petition circulators. The cap is vulnerable to a constitutional challenge. (AS, 15.45.110.c)

High Signature Requirement—1 point deducted

At 10 percent of the vote in the last election, Alaska's high statutory initiative signature requirement makes it extremely difficult for less well-funded campaigns to succeed in petitioning an issue onto the ballot. Only one state, Wyoming, has a higher signature requirement for initiative statutes than Alaska's 10 percent. In fact, the Last Frontier's requirement for a statutory initiative is more onerous than the requirement for a constitutional amendment in seven other states. (Alaska Constitution, Article XI §3)

Alaska can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state constitutional amendments: Alaska could gain three points by creating a process for citizens to propose amendments to the state constitution by initiative.

Lower the number of signatures needed to qualify: Alaska could also gain one point by lowering the number of signatures needed to qualify a statutory initiative to 5 percent or less of the votes cast for governor in the last election. (Alaska Constitution, Article XI §3)

Eliminate Restrictions

End the \$1 per-signature limit on paying people to circulate petitions: Alaska could gain one point by repealing the limit of \$1 per signature on payments to people who circulate petitions. (AS, 15.45.110.c)

Allow people from outside Alaska to help Alaskans petition their government: Repealing the requirement that only residents of Alaska can circulate petitions would give Alaska an additional point. (AS, 15.45.105.03)

Count each signature equally: Repealing the requirement that signatures be gathered from at least three fourths of the state's legislative districts, and allowing voters from any part of the state to sign a petition on equal footing would give Alaska an additional half point. (Alaska Constitution, Article XI §3)

Arizona



Arizona citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 15 percent of the votes cast for governor in the last statewide election — currently 230,046.

Arizona's Initiative & Referendum Rights



Constitutional Amendment —3 points

Arizona's state constitution authorizes citizens to propose constitutional amendments through the petition process. Arizona receives three points. (Arizona Constitution, Article XXI §1)

Statutory Initiative—3 points

Arizona's state constitution authorizes citizens to propose simple statutes by petition. Arizona receives three points. (Arizona Constitution, Article IV §1)

Referendum—2 points

Arizona's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Arizona receives two points. (Arizona Constitution, Article IV §1)

Local Initiative—3 points

Residents of Arizona municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes and two additional points because the local initiative is available to most Arizonans.

Restrictions on Arizona's Initiative & Referendum Rights

High Signature Requirement for Constitutional Amendments—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Arizona's signature requirement is above 10 percent of the number of votes cast for governor in the last election, one point was deducted. (Arizona Constitution, Article XXI §1)

High Signature Requirement for Statutory Initiatives—1 point deducted

Arizona's signature requirement for simple statutes is above 8 percent of the number of votes cast for governor in the last election, thus one point was deducted. (Arizona Constitution, Article XXI §1)

Residency Requirement—1 point deducted

Arizona bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. The federal Ninth Circuit Court of Appeals has already struck down the state's residency requirement for independent presidential candidates as an unconstitutional violation of citizens' First Amendment rights. (AS, 19-112)

Guilt By Association Law—1 point deducted

Arizona law allows any person employing or contracting with petition circulators to be charged with a felony if five or more people employed or under contract to them are convicted of a misdemeanor violation of petition laws. The manager can be charged regardless of whether he or she had any knowledge that employees or contractors were in violation of the law. Because innocent people can be imprisoned for the independent acts of others, this law creates a chilling effect on the petition process. (AS, 19-119.01.B)

Arizona can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: Arizona could gain one point by lowering the signature requirement to qualify a constitutional amendment initiative to 8 percent or less of the vote in the last election for governor. By lowering the signature requirement to qualify a statutory initiative to 5 percent or less of the vote in the last election for governor, the state would gain an additional one point. (Arizona Constitution, Article XXI §1)

Eliminate Restrictions

Allow people from outside of Arizona to help Arizonans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Arizona, would give Arizona an additional point. (AS, 19-112)

Repeal the unfair and almost certainly unconstitutional new law criminalizing individuals for the actions of those employed or contracted by them. This would result in gaining one additional point. (AS, 19-119.01.B)

Additional Notes

In 2008 the Ninth Circuit Court of Appeals struck down Arizona's residency requirement in *Nader v. Brewer*, a lawsuit over petition circulators for independent presidential candidate ballot access. Though the Court ruling specifically mentioned that residency requirements for initiative and other candidate petition would likewise be unconstitutional, the legislature decided in 2009 to take a narrow interpretation of the court's ruling and legalized non-resident campaign workers for independent presidential candidates only, leaving the ban in place for other kinds of petitions. Currently the requirement is back under challenge in *Arizona Green Party v. Bennett*.

Arkansas

B+
Score: 9.5

Arkansas citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election—currently 77,468.

Arkansas's Initiative & Referendum Rights



Constitutional Amendment—3 points

Arkansas's state constitution authorizes citizens to propose constitutional amendments through the petition process. Arkansas receives three points. (Arkansas Constitution, Article V §1)

Statutory Initiative—3 points

Arkansas's state constitution authorizes citizens to propose simple statutes by petition. Arkansas receives three points. (Arkansas Constitution, Article V §1)

Referendum—2 points

Arkansas's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Arkansas receives two points. (Arkansas Constitution, Article V §1)

Local Initiative—3 points

Residents of Arkansas municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes and two additional points because the local initiative is available to most Arkansans. (Arkansas Constitution, Article V §1)

Restrictions on Arkansas's Initiative & Referendum Rights

Distribution Requirement—½ point deducted

Arkansas requires that, in addition to gathering signatures of 10 percent of voters from the last statewide election, signatures equal to 5 percent must be gathered in 15 of 75 counties for amendments and signatures equal to 4 percent in 15 of 75 counties for statutes. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Arkansas Constitution, Article V §1)

High Signature Requirement for Constitutional Amendments—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Arkansas's signature requirement is above 8 percent of the number of votes cast for governor in the last election, a half point was deducted. (Arkansas Constitution, Article V §1)

High Signature Requirement for Statutory Initiatives—½ point deducted

Arkansas's signature requirement for statutory initiatives is above 5 percent of the number of votes cast for governor in the last election, thus a half point was deducted. (Arkansas Constitution, Article V §1)

Arkansas can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: Arkansas could gain a half point by lowering the number of signatures needed to qualify a constitutional amendment initiative to 8 percent of the votes cast in the last election for governor or less. Another half point could be gained by lowering the signature requirement for statutes to 5 percent or less.

Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from 15 of 75 counties in the state and allowing voters from any part of the state to sign the petition on equal footing (Arkansas Constitution, Article V §1) would give Arkansas an additional half point.

Additional Notes

Arkansas's ballot title process allows legal challenges at any time, even after the required number of voters have signed petitions. Numerous initiatives have been removed from the ballot due to the state supreme court finding the ballot title to be insufficient or misleading. This has happened even when proponents accept a title written by the attorney general. This vulnerability of initiative campaigns to ballot title challenges discourages citizens from using the process. Arkansas could benefit from legislation requiring challenges to a ballot title to come prior to the petition period, as was enacted in neighboring Oklahoma in 2009.

California **B+** Score: 9



California citizens enjoy the right to propose constitutional amendments and state laws (statutes) by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 8% of the votes cast for governor in the last statewide election—currently 711,925.

California's Initiative & Referendum Rights



Constitutional Amendment—3 points

California's state constitution authorizes citizens to propose constitutional amendments by petition. California receives three points. (California Constitution, Article II §8(a))

Statutory Initiative—3 points

California's state constitution authorizes citizens to propose simple statutes by petition. California receives three points. (California Constitution, Article II §8(a))

Referendum—2 points

California's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. California receives two points. (California Constitution, Article II §9(a))

Local Initiative—3 points

Residents of California municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Californians.

Restrictions on California's Initiative & Referendum Rights

Residency Requirement—1 point deducted

California bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (California Elections Code, Section 102)

Insufficient Circulation Period (Statutory Initiatives)—½ point deducted

California petition sponsors have only five months to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the hundreds of thousands of signatures needed to qualify, and California's short period does not allow enough.

Insufficient Circulation Period (Constitutional Amendments)—½ point deducted

California petition sponsors have only five months to collect the required number of signatures to qualify a constitutional amendment for the ballot. Petition sponsors need ample time to collect the more than one million signatures needed to qualify, and California's short five month period does not allow enough time.

California can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Increase the time period to circulate petitions: California could gain half a point by increasing the circulation period to at least nine months for constitutional amendments and another half point by increasing the period for statutory initiatives to at least nine months.

Eliminate Restrictions

Allow people from outside of California to help Californians petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of California would give California an additional point. (California Elections Code, Section 102)

Additional Notes

In 2009, the California Legislature passed four bills that would have restricted the state's initiative process, including an attempt to ban paying campaign workers by the number of signatures they collect, place additional requirements on petition firms and increase the petition filing fee fourfold. Governor Arnold Schwarzenegger vetoed all four bills, arguing they were aimed at chilling the petition process. The governor's vetoes won him Citizens in Charge Foundation's November 2008 John Lilburne Award for protecting the right to petition government.

Colorado **C+**

Score: 7

Colorado citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment or a state law on the ballot, citizens must collect the signatures of registered voters equal to 5 percent of the votes cast for secretary of state in the last statewide election — currently 76,046.

Colorado's Initiative & Referendum Rights



Constitutional Amendment —3 points

Colorado's state constitution authorizes citizens to propose constitutional amendments through the petition process. Colorado receives three points. (Colorado Constitution, Article V §1)

Statutory Initiative—3 points

Colorado's state constitution authorizes citizens to propose simple statutes by petition. Colorado receives three points. (Colorado Constitution, Article V §1)

Referendum—2 points

Colorado's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Colorado receives two points. (Colorado Constitution, Article V §1)

Local Initiative—3 points

Residents of Colorado municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Coloradans.

Restrictions on Colorado's Initiative & Referendum Rights

Residency Requirement—1 point deducted

Colorado bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (Colorado Statutes, 1-40-112)

Pay-Per-Signature Ban—1 point deducted

Colorado bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition more than 20 percent of their pay based on the number of signatures they collect. This artificial restriction on pay makes it harder for campaigns to recruit workers. (Colorado Statutes, 1-40-112 §4)

Petition Sponsors Vulnerable to Harassment —1 point deducted

Colorado petition sponsors can be sued for attorney's fees by people who successfully challenge the validity of petition signatures. This encourages harassing lawsuits that can punish initiative proponents for signatures that are disqualified. In any petition effort, no matter how diligent, some signatures are likely to be disqualified for any number of reasons — from a signer's voter registration having lapsed to a mistake made in filling out the petition. This statute encourages increased litigation against initiative sponsors. (Colorado Statutes, 1-40-118)

Insufficient Circulation Period (Statutory Initiatives)—½ point deducted

Colorado petition sponsors have only six months to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to

qualify: Colorado's short six-month period does not allow enough time.

Insufficient Circulation Period (Constitutional Amendments)—½ point deducted

Colorado petition sponsors have only six months to collect the required number of signatures to qualify a constitutional amendment for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify and Colorado's short six-month period does not allow enough time. (Colorado Statutes, 1-40-108)

Colorado can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ Expand Citizen Access

Increase the time period to circulate petitions: Colorado could gain a half point by increasing the circulation time period to at least nine months for constitutional amendments and another half point by increasing the time period for statutory initiatives to at least nine months. (Colorado Statutes, 1-40-108)

✓ Eliminate Restrictions

Allow people from outside of Colorado to help Coloradans petition their government: Repealing the requirement that one must be a resident of Colorado to circulate petitions would give Colorado an additional point. (Colorado Statutes, 1-40-112)

Ease restrictions on paid circulators: Colorado could gain a point by repealing its ban on paying campaign workers who collect signatures more than 20 percent of their compensation on the number of signatures they collect (Colorado Statutes, 1-40-112 §4).

Repeal the statute encouraging lawsuits against initiative proponents: By making the sponsors of initiatives liable for the attorney's fees of those challenging the validity of petition signatures, this law promotes litigation and increases the financial risk to citizens proposing an initiative. Repealing this statute would result in Colorado gaining one additional point. (Colorado Statutes, 1-40-116)

Additional Notes

In 2009, the Colorado Legislature passed House Bill 1326, which placed severe restrictions on paying campaign workers by the number of signatures they collect and made petition sponsors vulnerable to harassing lawsuits by allowing people who successfully challenge the validity of signatures in court to sue the campaign to recover attorney's fee. The Rocky Mountain State lost a point for each of these two restrictions, reducing Colorado's grade from a B+ to a C+ in this one legislative act.

Connecticut

D

Score: 3

Connecticut citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Connecticut's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Connecticut municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Connecticut should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Connecticut could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Connecticut could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Connecticut could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Delaware

Delaware citizens do not have any state-wide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.



F
Score: **1**

Delaware's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Delaware municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.

To improve its score, Alabama should...

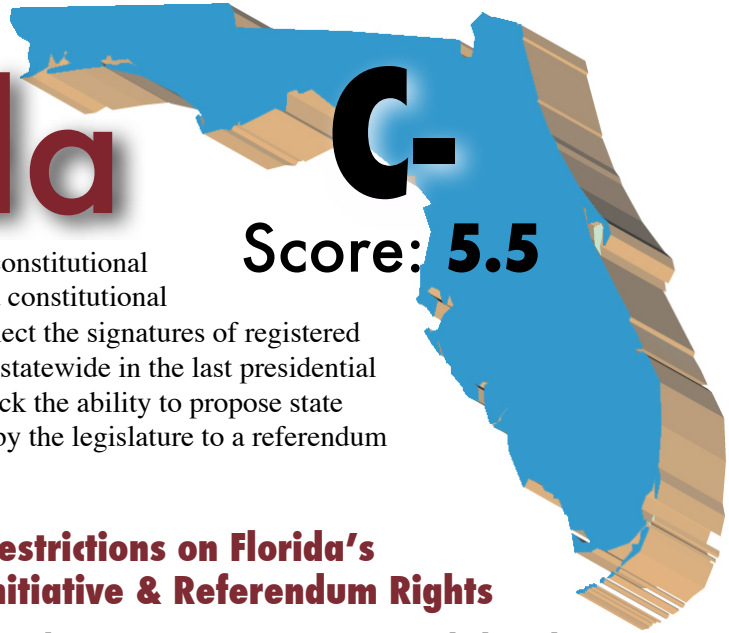
✔ Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Delaware could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Delaware could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Delaware could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Delaware could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

Florida

C-

Score: **5.5**



Florida citizens enjoy the right to propose constitutional amendments by petition. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 8 percent of total votes cast statewide in the last presidential election — currently 676,506. Floridians lack the ability to propose state laws (simple statutes) or bring acts passed by the legislature to a referendum — or People’s Veto — by petition.

Florida’s Initiative & Referendum Rights



Constitutional Amendment—3 points

Florida’s state constitution authorizes citizens to propose constitutional amendments by petition. Florida receives three points. (Florida Constitution, Article XI §3)

Local Initiative—3 points

Residents of Florida municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Floridians.

Additional Notes

In the last decade, it has become considerably more difficult for Florida citizens to place measures on the ballot and pass them. In 2004, the legislature put a measure on the ballot to move the filing deadline for signatures from August to

February of a general election year. The measure passed. In 2006, legislators placed a measure on the ballot to require a 60 percent vote to pass a constitutional amendment. The measure passed, though not by the supermajority it now requires of other measures. From 1996 through 2004, an average of four initiatives appeared on the state ballot; in 2006 and again in 2008, only one initiative made the ballot.

Restrictions on Florida’s Initiative & Referendum Rights

Distribution Requirement—½ point deducted

Florida requires that, in addition to gathering signatures equal to 10 percent of voters in the last presidential election, petition signatures must also be gathered from at least half of the congressional districts in the state. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Florida Constitution, Article XI §3)

Florida can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state statutory laws: Florida could gain three points by creating a process for citizens to propose statutory laws by petition.

Allow citizens to call a referendum or people’s veto on acts passed by the legislature: Florida could gain two points by creating a statewide referendum process.



Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from half of the Congressional districts in the state and allowing voters from any part of the state to sign the petition on equal footing, would give Florida an additional half point. (Florida Constitution, Article XI §3)

Georgia

D

Score: 3

Georgia citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Georgia's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Georgia municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.

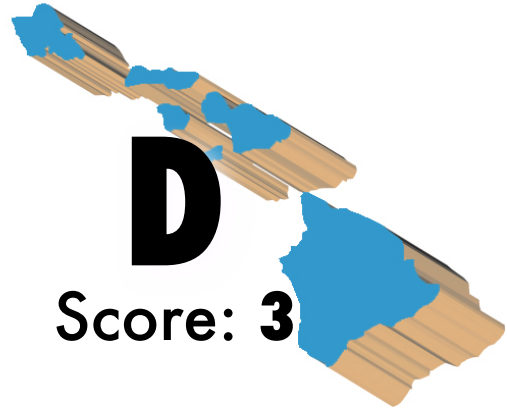


To improve its score, Georgia should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Georgia could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Georgia could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Georgia could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Hawaii



Hawaii citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Hawaii's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Hawaii municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.

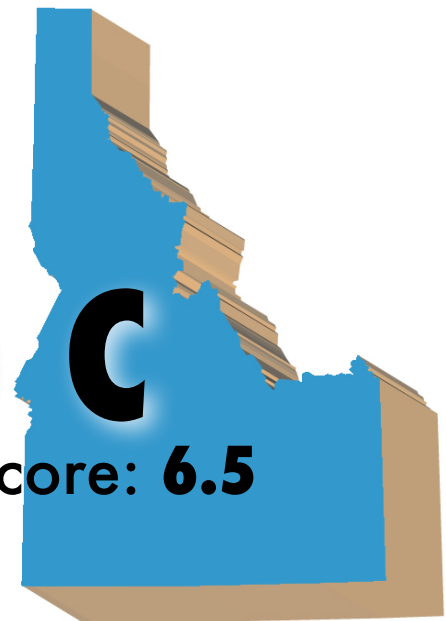


To improve its score, Hawaii should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Hawaii could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Hawaii could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Hawaii could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Idaho



Score: **6.5**

Idaho citizens enjoy the right to propose state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to

6 percent of registered voters at the last general election—currently 51,712. Idahoans have no initiative process to amend their state constitution.

Idaho's Initiative & Referendum Rights



Statutory Initiative—3 points

Idaho's state constitution authorizes citizens to propose simple statutes by petition. Idaho receives three points. (Idaho Constitution, Article III §1)

Referendum—2 points

Idaho's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Idaho receives two points. (Idaho Constitution, Article III §1)

Local Initiative—3 points

Residents of Idaho municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Idahoans.

Restrictions on Idaho's Initiative & Referendum Rights

Residency Requirement—1 point deducted

Idaho bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (Idaho Statutes, 34-1807)

Insufficient Circulation Period (Statutory Initiatives)—½ point deducted

Idaho petition sponsors have only five months to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Idaho's short five month period does not allow enough time.

Idaho can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state constitutional amendments: Idaho could gain three points by creating a process for citizens to amend the state constitution through initiative.

Increase the time allotted to circulate petitions: Idaho could gain half a point by increasing the circulation period for a statutory initiative to at least nine months.

Eliminate Restrictions

Allow people from outside of Idaho to help Idahoans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Idaho, would give Idaho an additional point. (Idaho Statutes, 34-1807)

Illinois



Illinois citizens enjoy the right to propose constitutional amendments by petition. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 8 percent of the votes cast for governor in the last statewide election — currently 278,934. Illinois citizens lack the ability to propose state laws (simple statutes) or bring acts passed by the legislature to a referendum — or People’s Veto — by petition.

Illinois’s Initiative & Referendum Rights



Constitutional Amendment —3 points

Illinois’s state constitution authorizes citizens to propose constitutional amendments by petition. Illinois receives three points. (Illinois Constitution, Article XIV §3)

Local Initiative—3 points

Residents of Illinois municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Illinois citizens.

Restrictions on Illinois’s Initiative & Referendum Rights

Severely Limited Constitutional Amendment Process —2½ points deducted

Illinois’s constitutional amendment process is severely limited to initiatives dealing only with structural and procedural changes to the constitutional article concerning the legislature. Only one statewide initiative has ever been on the ballot, and many observers do not consider Illinois to be truly an initiative state. We deducted two and a half points from Illinois because the state’s constitutional amendment process is completely ineffective.

Illinois can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens a full-fledged constitutional amendment process: Illinois could gain two and a half points by allowing citizens to propose constitutional amendments on any subject, rather than the current process that is limited to structural and procedural changes to the constitution’s legislative article.

Allow citizens to propose state statutory laws: Illinois could gain three points by creating a process for citizens to propose statutory laws by petition.

Allow citizens to call a referendum or people’s veto on acts passed by the legislature: Illinois could gain two points by creating a statewide referendum process.

Indiana

Indiana citizens do not have any statewide initiative and referendum rights, nor do any local jurisdictions recognize initiative and referendum rights.



Indiana's Initiative & Referendum Rights

Zero (0) points

No local or statewide initiative or referendum rights are recognized in Indiana.



To improve its score, Indiana should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Indiana could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Indiana could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Indiana could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Allow local initiative and referendum rights:** Indiana could earn three points if the majority of state citizens had access to a local initiative and referendum process.

Iowa

Iowa citizens do not have any state-wide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.



Iowa's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Iowa municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, Iowa should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Iowa could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Iowa could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Iowa could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Iowa could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

Kansas



Kansas citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Kansas's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Kansas municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Kansas should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Kansas could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Kansas could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Kansas could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Kentucky



Kentucky citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

Kentucky's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Kentucky municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, Kentucky should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Kentucky could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Kentucky could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Kentucky could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Kentucky could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

Louisiana



Louisiana citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Louisiana's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Louisiana municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Louisiana should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Louisiana could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Louisiana could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Louisiana could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Maine



Maine citizens enjoy the right to propose state laws by petition, and to call a People’s Veto (a statewide referendum) on laws passed by the legislature. In order to place a state law on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election—currently 55,087. Mainers have no initiative process to propose amendments to their state constitution.

Maine’s Initiative & Referendum Rights



Statutory Initiative—3 points

Maine’s state constitution authorizes citizens to propose simple statutes by petition. Maine receives three points. (Maine Constitution, Article IV §17)

Referendum—2 points

Maine’s state constitution authorizes citizens to call a statewide referendum — or People’s Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Maine receives two points. (Maine Constitution, Article IV §17)

Local Initiative—3 points

Residents of Maine municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes and two additional points because the local initiative is available to most Maine citizens.

Restrictions on Maine’s Initiative & Referendum Rights

Residency Requirement—1 point deducted

Maine bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens’ First Amendment rights. (Maine Revised Statutes, Title 21-A §903-A)

High Signature Requirement for Statutory Initiatives—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Maine loses a point because the state’s signature requirement is above 8 percent of votes cast for governor in the last election. (Maine Constitution, Article IV §17, §18)

Maine can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state constitutional amendments: Maine could gain three points by creating a process for citizens to propose amendments to the state constitution by initiative.

Lower the number of signatures needed to qualify: Maine could also gain a point by lowering the number of signatures needed to qualify a statutory initiative to 5 percent or less of the votes cast for governor in the last election. (Maine Constitution Article IV §17, §18)

Eliminate Restrictions

Allow people from outside of Maine to help Mainers petition their government: Repealing the requirement that only residents of Maine can circulate petitions would give Maine an additional point. (Maine Revised, Statutes Title 21-A §903-A)

Maryland **D**

Score: **4.5**

Maryland citizens enjoy the right to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a people's veto on the ballot, citizens must collect the signatures of registered voters equal to 3 percent of the votes cast for governor in the last statewide election — currently 53,649. Marylanders lack a direct initiative process to propose either state laws (statutes) or amendments to their state constitution.

Maryland's Initiative & Referendum Rights



Referendum—2 points

Maryland's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Maryland receives two points. (Maryland Constitution, Article XVI §1)

Local Initiative—3 points

Residents of Maryland municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Maryland citizens. (Maryland Constitution, Article XVI §2)

Restrictions on Maryland's Initiative & Referendum Rights

Distribution Requirement—½ point deducted

Maryland requires that, in addition to gathering signatures of 3 percent of voters in the last election for governor, no more than half of required signatures may be from any one county or the City of Baltimore. This distribution requirement adds to the difficulty of qualifying a referendum and significantly increases the cost of petitioning. (Maryland Constitution, Article XVI §3)

Maryland can improve its grade by making its initiative process more open and accessible to the average citizen.

Expand Citizen Access

Allow citizens to propose state constitutional amendments: Maryland could gain three points by creating a process for citizens to amend the state constitution through initiative.

Allow citizens to propose statutory laws: Maryland could gain three points by creating a process for citizens to propose statutory laws through initiative.

Eliminate Restrictions

Count each signature equally: Repealing the requirement that no more than half of the necessary signatures may come from any one county or the city of Baltimore and allowing voters from any part of the state to sign the petition on equal footing would give Maryland an additional half point. (Maryland Constitution, Article XVI § 3)



Additional Notes

Marylanders' referendum rights are currently in limbo. A narrow interpretation of a 2008 state Court of Appeals ruling created the toughest signature requirement in the country. Recent referendum efforts have seen signatures disqualified for the use of middle initials instead of middle names, for use of shortened versions of names — such as “Sue” instead of “Susan” or “Bill” instead of “William” — or for not matching exactly how the voter's registration card was filled out. No other state enforces such strict signature requirements, and no referendum has succeeded in making it onto the ballot since these requirements have been put in place. The process is currently under legal challenge in *Howard County Citizens for Open Government v. Howard County Board of Elections*.

Massachusetts

Massachusetts citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on any law passed by the legislature. In order to trigger the constitutional provision requiring the state legislature to vote on whether to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 3 percent of the votes cast for governor in the last statewide election — currently 67,315.

The initiative process for proposing constitutional amendments in Massachusetts is indirect. Unlike the other 16 states with an initiative process allow-



ing citizens to propose constitutional amendments, citizen-proposed amendments must go to the state legislature and garner the votes of 25 percent of legislators in order to go on the ballot. Since the beginning of the process in 1917, only three citizen-initiated amendments have made it through the legislature and onto the ballot for voters to decide.

Massachusetts's Initiative & Referendum Rights



Constitutional Amendment—3 points

Massachusetts's state constitution authorizes citizens to propose constitutional amendments by petition. Massachusetts receives three points. (Massachusetts Constitution, Article XLVII §2-1)

Statutory Initiative—3 points

Massachusetts's state constitution authorizes citizens to propose state laws (simple statutes) to the legislature by petition. The legislature can act to pass the statute, amend it only with the permission of the proponents, to place a competing proposal on the ballot or ignore the measure completely. The legislature cannot block a citizen-initiated statute. Unless the legislature passes the proposed statute, it goes on the ballot. Massachusetts receives three points. (Massachusetts Constitution, Article XLVII §2-1)

Referendum—2 points

Massachusetts state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject any act passed by the legislature. Massachusetts received two

points. (Massachusetts Constitution, Article XLVII Chapter III)

Local Initiative—3 points

Residents of Massachusetts municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Massachusetts citizens.

Restrictions on Massachusetts's Initiative & Referendum Rights

Distribution Requirement—½ point deducted

Massachusetts requires that, in addition to gathering signatures of three percent of the votes cast for governor in the last election, no more than one quarter of petition signatures may be from any one county. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Massachusetts Constitution, Article XLVII)

Indirect Constitutional Amendment Initiative—2 points deducted

Massachusetts has an indirect initiative process: in order to qualify a constitutional amendment for the ballot supporters must collect signatures then submit the initiative to the legislature for approval. At least 25 percent of legislators must vote in favor of the initiative amendment in order for it to go on the ballot. As a result of this highly restrictive process, only three initiatives have made the state ballot since 1917. While the state has an initiative process, it has been effectively blocked by the legislature. Therefore, two points have been deducted from the three awarded to Massachusetts for having a process for citizens to put constitutional amendments on the ballot. (Massachusetts Constitution, Article XLVII Chapter IV)

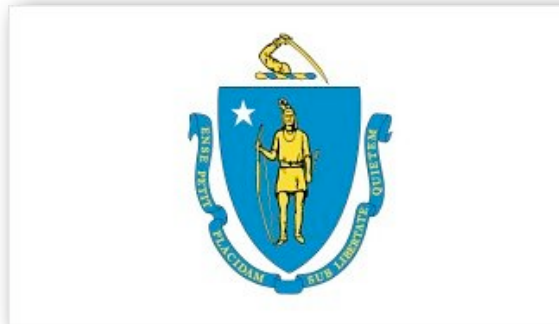
Insufficient Circulation Period (Statutory Initiatives)—1 point deducted

Massachusetts petition sponsors have only two months to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Massachusetts's short two-month period does not allow enough time.

Insufficient Circulation Period (Constitutional Amendments)—1 point deducted


Massachusetts petition sponsors have only two months to collect the required number of signatures to qualify a constitutional amendment for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Massachusetts short two-month period does not allow enough time.

Massachusetts can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Create a direct initiative: By allowing the people to place constitutional amendments on the ballot without legislative approval, Massachusetts could gain two points.

 **Increase the time allotted to circulate petitions:** Massachusetts could gain a point by increasing the circulation period to at least nine months for constitutional amendments and another point by increasing the petition period for statutory initiatives to at least nine months.

Eliminate Restrictions

Count each signature equally: Repealing the requirement that no more than one fourth of signatures be gathered from any one county and allowing voters from any part of the state to sign the petition on equal footing (Massachusetts Constitution, Article XLVII) would give Massachusetts an additional half point.

Michigan

B
Score: 8



Michigan citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 382,129.

Michigan's Initiative & Referendum Rights



Constitutional Amendment —3 points

Michigan's state constitution authorizes citizens to propose constitutional amendments by petition. Michigan receives three points. (Michigan Constitution, Article XII §2)

Statutory Initiative—3 points

Michigan's state constitution authorizes citizens to propose simple statutes by petition. Michigan receives three points. (Michigan Constitution, Article II §9)

Referendum—2 points

Michigan's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Michigan receives two points. (Michigan Constitution, Article II §9)

Local Initiative—3 points

Residents of Michigan municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Michigan citizens.

Restrictions on Michigan's Initiative & Referendum Rights

Residency Requirement—1 point deducted

Michigan bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. A similar residency requirement for recall petitions in Michigan has been struck down as an unconstitutional violation of citizens' First Amendment rights, as have similar restrictions in other states. (Michigan Statutes, 168.544c(3))

High Signature Requirement (Constitutional Amendments)—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Michigan's signature requirement is above 8 percent of the number of votes cast for governor in the last election we deducted a half point. (Michigan Constitution, Article XII §2)

High Signature Requirement (Statutory Initiatives)—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Michigan's signature requirement is above 5 percent of the number of votes cast for governor in the last election we deducted a half point.

Insufficient Circulation Period (Constitutional Amendments)—½ point deducted

Michigan petition sponsors have only six months to collect the required number of signatures to qualify a constitutional amendment for the ballot. Petition sponsors need ample time to collect the hundreds of thousands of signatures needed to qualify; Michigan's short six-month period does not allow enough time.

Insufficient Circulation Period (Statutory Initiatives)—½ point deducted

Michigan petition sponsors have only six months to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the hundreds of thousands of signatures needed to qualify; Michigan's short six-month period does not allow enough time. (Michigan Compiled Statutes, 168.472a)

Michigan can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ Expand Citizen Access

Lower the number of signatures needed to qualify: Michigan could gain half a point by lowering the number of signatures needed to qualify a constitutional amendment initiative to 8 percent or less and gain another half point by lowering the number of signatures needed to qualify a statutory initiative to 5 percent or less. (Michigan Constitution, Article XII §2)

Increase the time to circulate petitions: Michigan could gain half a point by increasing the circulation time period to at least nine months for constitutional amendments and another half point by increasing the time period for statutory initiatives to at least nine months. (Michigan Compiled Statutes 168.472a)

✓ Eliminate Restrictions

Allow people from outside of Michigan to help Michiganders petition their government: Repealing the requirement that in order to circulate initiative and referendum petitions one must be a resident of Michigan would give Michigan an additional one point. (Michigan Statutes, 168.544c(3))

Additional Notes

In December of 2009, Michigan's residency requirement for campaign workers circulating a recall petition was ruled unconstitutional by the federal Sixth Circuit Court of Appeals. The case, *Boegard v. Land*, arose from a 2008 recall petition effort in which people who did not live in the district of the official being recalled helped gather signatures. Michigan Secretary of State Terri Lynn Land has announced that the state will continue to enforce the state law requiring those who circulate an initiative petition to be state residents.

Minnesota



Minnesota citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Minnesota's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Minnesota municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Minnesota should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Minnesota could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Minnesota could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Minnesota could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Mississippi



Mississippi citizens enjoy the right to propose constitutional amendments by petition. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 12 percent of the votes cast for governor in the last statewide election — currently 89,284. Mississippians lack the ability to propose statewide laws (simple statutes) or put acts of the legislature to a referendum (people’s veto) through the petition process.

Mississippi’s Initiative & Referendum Rights



Constitutional Amendment —3 points

Mississippi’s state constitution authorizes citizens to propose constitutional amendments by petition. Mississippi receives three points. (Mississippi Constitution, Article XV §273(1, 3))

Local Initiative—1 point

Residents of some Mississippi municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes.

Restrictions on Mississippi’s Initiative & Referendum Rights

High Signature Requirement for Constitutional Amendments—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Mississippi’s signature requirement is above 10 percent of the number of votes cast for governor in the last election, one point was deducted. (Mississippi Constitution, Article XV §273(3))

Distribution Requirement—½ point deducted

Mississippi law requires that, in addition to gathering signatures of 12 percent of votes cast for governor in last statewide election, no more than one fifth of petition signatures can come from any one of the state’s five congressional districts.* This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Mississippi Constitution, Article XV §273(3))

Residency Requirement—1 point deducted

Mississippi bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens’ First Amendment rights. (Mississippi Code, §23-17-17(2))

* Mississippi lost one Congressional district following the 2000 federal census and now has only four. Because the state constitution mandates that no more than one fifth of petition signatures can come from any one congressional district, the Secretary of State has adopted a policy of using the five old congressional district boundaries for the purposes of fulfilling the distribution requirement.

Mississippi can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state statutory laws: Mississippi could gain three points by creating a process for citizens to propose statutory laws through initiative.

Allow citizens to call a referendum or people's veto on acts passed by the legislature: Mississippi could gain two points by creating a statewide referendum process.

Expand access to local initiative and referendum: Mississippi could gain two points by enabling over 50 percent of the population to access local initiative and referendum.

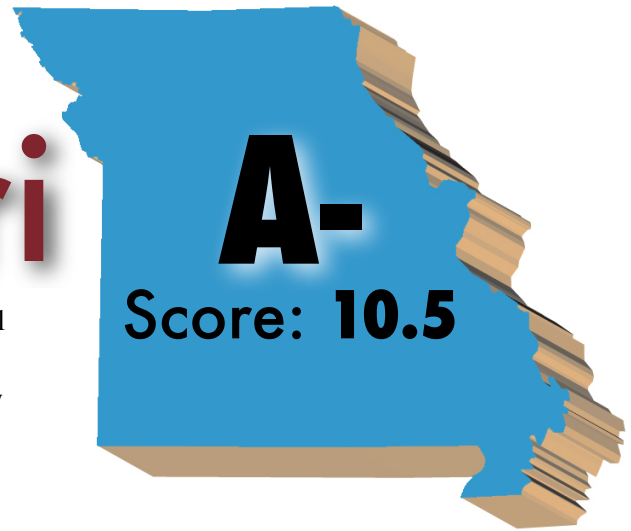
Lower the number of signatures needed to qualify: Mississippi could also gain one point by lowering the number of signatures needed to qualify an initiative to 8 percent or less. (Mississippi Constitution, Article XV §273(3))

Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from each of the five congressional districts in the state and allowing voters from any part of the state to sign the petition on equal footing would give Mississippi an additional half point. (Mississippi Constitution, Article XI § 3)

Allow people from outside of Mississippi to help Mississippians petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Mississippi would give Mississippi an additional point. (Mississippi Code, §23-17-17(2))

Missouri



Missouri citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on any law passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 8 percent of votes cast for governor in last election from six of the state's nine congressional districts — currently between 146,907 and 159,359.

Missouri's Initiative & Referendum Rights



Constitutional Amendment—3 points

Missouri's state constitution authorizes citizens to propose constitutional amendments by petition. Missouri receives three points. (Missouri Constitution, Article III §49)

Statutory Initiative—3 points

Missouri's state constitution authorizes citizens to propose simple statutes by petition. Missouri receives three points. (Missouri Constitution, Article III §49)

Referendum—2 points

Missouri's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject any act passed by the legislature. Missouri receives two points. (Missouri Constitution, Article III §49)

Local Initiative—3 points

Residents of Missouri municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Missouri citizens.

Restrictions on Missouri's Initiative & Referendum Rights

Distribution Requirement—½ point deducted

Missouri requires that signatures equal to 8 percent of votes cast in the last election for governor be gathered from six of the state's nine congressional districts. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Missouri Constitution, Article III §50)

Missouri can improve its grade by making its initiative process more open and accessible to the average citizen.



Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from six out of nine congressional districts in the state and allowing voters from any part of the state to sign the petition on equal footing, would give Missouri an additional half point. (Missouri Constitution, Article III §49)

Additional Notes

In recent years, litigation over the ballot titles and fiscal notes written for initiatives by the Secretary of State and the State Auditor, respectively, has resulted in significant delays, in several cases scuttling petition efforts as the petition period has been exhausted by the litigation. Legislation to establish deadlines for lawsuits challenging ballot titles and fiscal notes, so that citizens would be guaranteed ample time to collect the petition signatures, has been introduced and may be considered in the 2010 legislative session.

Montana

C+

Score: 7.5

Montana citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a state-wide referendum) on any law passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 48,673.

Montana's Initiative

& Referendum Rights

Constitutional Amendment—3 points

Montana's state constitution authorizes citizens to propose constitutional amendments by petition. Montana receives three points. (Montana Constitution, Article III §9)

Statutory Initiative—3 points

Montana's state constitution authorizes citizens to propose simple statutes by petition. Montana receives three points. (Montana Constitution, Article III §4)

Referendum—2 points

Montana's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject any act passed by the legislature. Montana receives two points. (Montana Constitution, Article III §5)

Local Initiative—3 points

Residents of Montana municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Montana citizens.

Restrictions on Montana's Initiative & Referendum Rights

Residency Requirement—1 point deducted

Montana bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (Montana Statutes, 13-27-102(2)(a))

Distribution Requirement—½ point deducted

Montana requires that, in addition to gathering signatures of 10 percent of voters from the last statewide election for a constitutional amendment, petition signatures equaling 10 percent must also be gathered in 40 legislative districts, and in addition to gathering signatures of 5 percent of voters from the last statewide election for a statute, petition signatures equaling 5 percent must also be gathered in 34 legislative districts. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Montana Constitution, Article III §4(2), Article III §5(1))

Pay-Per-Signature Ban—1 point deducted

Montana bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition by the number of signatures they collect. Similar bans have been ruled unconstitutional in five states. (Montana Statutes 13-27-102(2)(b))

High Signature Requirement—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Montana's signature requirement is above 8 percent of the total number of votes cast for governor in the last election, half a point was deducted. (Montana Constitution, Article III §4(2), Article III §5(1))

Montana can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: Montana could gain half a point by lowering the number of signatures needed to qualify an initiative to 8 percent of the votes cast for governor in the last election or less. (Montana Constitution, Article III §4(2), Article III §5(1))

Count each signature equally: Repealing the requirement that signatures be gathered from 40 of the House districts in the state and allowing voters from any part of the state to sign the petition on equal footing, would give Montana an additional half point. (Montana Constitution Article III §4(2), Article III §5(1))

Eliminate Restrictions

Allow people from outside of Montana to help Montanans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Montana, would give Montana an additional point. (Montana Statutes, 13-27-102(2)(a))

Ease restrictions on paid circulators: Montana could gain a point by repealing its ban on paying people who circulate petitions by the number of signatures they collect. (Montana Statutes, 13-27-102(2)(b))

Nebraska C

Score: 6.5

Nebraska citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a state-wide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of 10 percent of the state's registered voters at the time of filing — currently 115,703*.

Nebraska's Initiative & Referendum Rights



Constitutional Amendment—3 points

Nebraska's state constitution authorizes citizens to propose constitutional amendments by petition. Nebraska receives three points. (Nebraska Constitution, Article III §2)

Statutory Initiative—3 points

Nebraska state constitution authorizes citizens to propose simple statutes by petition. Nebraska receives three points. (Nebraska Constitution, Article III §2)

Referendum—2 points

Nebraska's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Nebraska receives two points. (Nebraska Constitution, Article III §3)

Local Initiative—3 points

Residents of Nebraska municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Nebraska citizens.

Restrictions on Nebraska's Initiative & Referendum Rights

High Signature Requirement (Constitutional Amendments)—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Nebraska's signature requirement is based on registered voters, rather than the number of votes cast statewide in the last election. Since far more citizens are registered to vote than *actually* vote in any given election, Nebraska's requirement (10 percent of registered voters) is far greater than the same percentage of the last vote for governor or other statewide office. Thus, one point was deducted. (Nebraska Constitution Article III §2)

High Signature Requirement (Statutory Initiatives)—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot. Nebraska's signature requirement is based on registered voters, rather than the number of votes cast statewide in the last election. Since far more citizens are registered to vote than *actually* vote in any given election, Nebraska's requirement (7 percent of registered voters) is far greater than 8 percent of the last vote for governor or other statewide office. Thus, one point was deducted.

Distribution Requirement—½ point deducted

Nebraska requires that, in addition to gathering signatures of 10 percent of registered voters at the time signatures are turned in, petition signatures equaling 5 percent of registered voters must also be gathered from at least two-fifths of the counties in the state. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Nebraska Constitution, Article III §2)

* The exact number of petition signatures needed is impossible to calculate, as it depends on the number of registered voters on the state's rolls in the future — that is, at the time the signatures are submitted. Because state lists of registered voters constantly change, as well as being notoriously out-of-date, Citizens in Charge Foundation urges states to set petition requirements on a percentage of the last vote for governor (or other statewide office) rather than a percentage of registered voters.

Residency Requirement—1 point deducted

Nebraska bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. Nebraska's statute is now under challenge in federal court. (Nebraska Statutes, 32-629-2)

Pay-Per-Signature Ban—1 point deducted

Nebraska bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition by the number of signatures they collect. Similar bans have been ruled unconstitutional in five states. Nebraska's statute is now under challenge in federal court. (Nebraska Statutes, 32-630-3(g))

Nebraska can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ Expand Citizen Access

Lower the number of signatures needed to qualify: Nebraska could gain one point by lowering the signature requirement to qualify a constitutional amendment initiative to 8 percent or less of the vote in the last election for governor. By lowering the signature requirement to qualify a statutory initiative to 5 percent or less of the vote in the last election for governor, the state would gain another point.

✓ Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from two-fifths of the counties in the state and allowing voters from any part of the state to sign the petition on equal footing, would give Nebraska an additional half point. (Nebraska Constitution Article III §2)

Allow people from outside of Nebraska to help Nebraskans petition their government: Repealing the requirement that one must be a resident of Nebraska to circulate petitions would give Nebraska an additional point. (Nebraska Statutes 32-629-2)

Ease restrictions on paid circulators: Nebraska could gain a point by repealing its ban on paying petition circulators by the number of signatures they collect. (Nebraska Statutes 32-630-3(g))

Additional Notes

In December of 2009 the American Civil Liberties Union filed a lawsuit in federal court challenging Nebraska's residency requirement, distribution requirement, and "scarlet letter law" (a requirement that petitions say whether the person carrying them is paid to do so or not). The lawsuit is *Citizens in Charge v. Gale*. A second lawsuit, *Bernbeck v. Gale*, was filed in January 2010 challenging Nebraska's ban on paying campaign workers per-signature, the residency requirement and a requirement that petition circulators be over 18. Both cases are pending.

Nevada

B+
Score: 9

Nevada citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment or a state law on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the turnout in the last statewide election — currently 97,002.

Nevada's Initiative & Referendum Rights



Constitutional Amendment —3 points

Nevada's state constitution authorizes citizens to propose constitutional amendments by petition. Nevada receives three points. (Nevada Constitution, Article 19 § 2)

Statutory Initiative—3 points

Nevada's state constitution authorizes citizens to propose simple statutes by petition. Nevada receives three points. (Nevada Constitution, Article 19 § 2)

Referendum—2 points

Nevada's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Nevada receives two points. (Nevada Constitution, Article 19 § 1)

Local Initiative—3 points

Residents of Nevada municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Nevada citizens.

Restrictions on Nevada's Initiative & Referendum Rights

High Signature Requirement (Constitutional Amendments)—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Nevada's signature requirement is above 8 percent of the number of votes cast for governor in the last election, half a point was deducted. (Nevada Constitution, Article 19 § 2)

High Signature Requirement (Statutory Initiatives)—1 point deducted

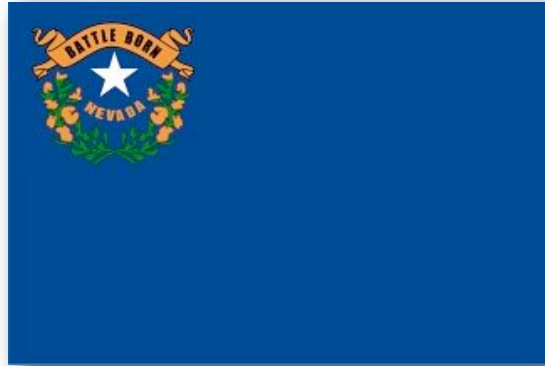
High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Nevada's signature requirement is above 8 percent of the number of votes cast for governor in the last election one point was deducted. (Nevada Constitution, Article 19 § 2)

Distribution Requirement—½ point deducted

Nevada requires that petition sponsors collect signatures equal to 10 percent of the turnout in the most recent election in each of the state's Congressional districts, in addition to 10 percent statewide (see note below). This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Nevada Revised Statutes, Chapter 239 §3.2)

*Nevada Senate Bill 212, which took effect on June 4, 2009, requires the Legislature to create petition districts from which signatures for an initiative petition must be gathered. Section 14 of this bill defines "petition district" to mean congressional district until July 1, 2011, at which time the Legislature is required to have established special petition districts.

Nevada can improve its grade by making its initiative process more open and accessible to the average citizen.



 **Expand Citizen Access**

Lower the number of signatures needed to qualify an initiative: Nevada could gain a half point by lowering the number of signatures needed to qualify an initiative for a constitutional amendment to 8 percent of voters in the last statewide election or less, and gain an additional point by lowering the number of signatures needed to qualify an initiative for a statute to 5 percent or less. (Nevada Constitution, Article III)

 **Eliminate Restrictions**

Count each signature equally: Repealing the requirement that petition sponsors collect signatures equal to 10 percent of the turnout in the most recent election in each of the state's Congressional districts, in addition to 10 percent statewide would give Nevada an additional half point. (Nevada Revised Statutes, Chapter 239 §3.2)

New Hampshire



New Hampshire citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

New Hampshire's Initiative & Referendum Rights

Local Initiative—3 points

Residents of New Hampshire municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, New Hampshire should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** New Hampshire could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** New Hampshire could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** New Hampshire could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

New Jersey



New Jersey citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

New Jersey's Initiative & Referendum Rights

Local Initiative—3 points

Residents of New Jersey municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, New Jersey should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** New Jersey could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** New Jersey could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** New Jersey could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

New Mexico

D

Score: 3.5

New Mexico citizens enjoy the right to call a People's Veto (a statewide referendum) on some laws passed by the legislature. In order to place a people's veto on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 53,649. New Mexicans lack a direct initiative process to propose either state laws (statutes) or amendments to their state constitution.

New Mexico's Initiative & Referendum Rights



Referendum—1 point

New Mexico's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject some acts passed by the legislature. New Mexico receives only one point due to the restrictive nature of the state's referendum process. In nearly 100 years, since 1912, only two statewide referendums have made the ballot. (New Mexico Constitution, Article IV §1)

Local Initiative—3 points

Residents of New Mexico municipalities have access to local initiative and referendum. The state receives one point for its local initiative and referendum processes and two additional points because the local initiative process is available to most New Mexicans. (New Mexico Constitution, Article IV §1)

Restrictions on New Mexico's Initiative & Referendum Rights

Distribution Requirement —½ point deducted

New Mexico requires that, in addition to gathering signatures of 10 percent of votes cast in the last general election, supporters must gather signatures in three fourths of the counties. This distribution requirement adds to the difficulty of qualifying a referendum and significantly increases the cost of petitioning. (New Mexico Constitution, Article IV §1)

New Mexico can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Expand scope of the referendum power to include all acts of the legislature: New Mexico's referendum process is severely limited and does not apply to general appropriation laws; laws providing for the preservation of the public peace, health or safety; for the payment of the public debt or interest thereon, or the creation or funding of the same, except as otherwise provided in this constitution; for the maintenance of the public schools or state institutions, and local or special laws. This means that most laws passed by the legislature aren't subject to the referendum. The last referendum to be voted on was in 1964. New Mexico can gain one point by expanding the scope of the referendum to cover all legislative statutes.

Allow citizens to propose state constitutional amendments: New Mexico could gain three points by creating a process for citizens to amend the state constitution through initiative.

Allow citizens to propose statutory laws: New Mexico could gain three points by creating a process for citizens to propose statutory laws through initiative.

Count each signature equally: Repealing the requirement that signatures must equal 10 percent of voters in three fourths of the counties and allowing voters from any part of the state to sign the petition on equal footing would give New Mexico an additional half point. (New Mexico Constitution, Article IV §1)

New York



New York citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

New York's Initiative & Referendum Rights

Local Initiative—3 points

Residents of New York municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, New York should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** New York could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** New York could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** New York could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

North Carolina

F
Score: **1**

North Carolina citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

North Carolina's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some North Carolina municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, North Carolina should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** North Carolina could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** North Carolina could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** North Carolina could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** North Carolina could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

North Dakota

C+
Score: 7

North Dakota citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 4 percent of the population at the last federal census — currently 25,659.

North Dakota's Initiative & Referendum Rights



Constitutional Amendment—3 points

North Dakota's state constitution authorizes citizens to propose constitutional amendments by petition. North Dakota receives three points. (North Dakota Constitution, Article III §1)

Statutory Initiative—3 points

North Dakota's state constitution authorizes citizens to propose simple statutes by petition. North Dakota received three points. (North Dakota Constitution, Article III §1)

Referendum—2 points

North Dakota's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. North Dakota receives two points. (North Dakota Constitution, Article III §1)

Local Initiative—1 point

Residents of some North Dakota municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes.

Restrictions on North Dakota's Initiative & Referendum Rights

Residency Requirement—1 point deducted

North Dakota bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. While North Dakota's law has been challenged and upheld by the federal Eighth Circuit, similar residency requirements in other states have been more recently struck down as unconstitutional violations of citizens' First Amendment rights. (North Dakota Constitution, Article III §3)

Pay-Per-Signature Ban—1 point deducted

North Dakota bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition by the number of signatures they collect. While North Dakota's law has been challenged and upheld by the federal Eighth Circuit, similar bans have more recently been ruled unconstitutional. (North Dakota Statutes, Title 16.1 §01-12-11)

North Dakota can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ Expand Citizen Access

Expand access to local initiative and referendum: North Dakota could gain two points by enabling over half the population to access local initiative and referendum.

✓ Eliminate Restrictions

Allow people from outside of North Dakota to help North Dakotans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of North Dakota would give the state an additional point. (North Dakota Constitution, Article III §3)

Ease restrictions on paid circulators: North Dakota could gain a point by repealing its ban on paying campaign workers on petition drives by the number of signatures they collect. (North Dakota Statutes, Title 16.1 §01-12-11)

Ohio



Ohio citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 382,079.

Ohio's Initiative & Referendum Rights



Constitutional Amendment —3 points

Ohio's state constitution authorizes citizens to propose constitutional amendments by petition. Ohio receives three points. (Ohio Constitution, Article II §2.01)

Statutory Initiative—3 points

Ohio's state constitution authorizes citizens to propose simple statutes by petition. Ohio receives three points. (Ohio Constitution Article II §2.01)

Referendum—2 points

Ohio's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Ohio receives two points. (Ohio Constitution Article II §2.01)

Local Initiative—3 points

Residents of Ohio municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Ohioans.

Restrictions on Ohio's Initiative & Referendum Rights

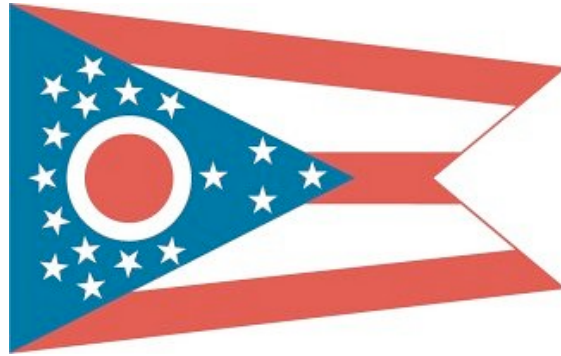
High Signature Requirement for Constitutional Amendment—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Ohio's signature requirement is above 8 percent of the number of votes cast in the last election for governor, a half point was deducted.

Distribution Requirement—½ point deducted

Ohio requires that, in addition to gathering signatures of registered voters equaling 10 percent of the last vote for governor for a constitutional amendment and 6 percent for a statute, petition signatures equaling 5 percent for an amendment and 1.5 percent for a statute must also be gathered from 44 of the 88 counties in the state. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning.

Ohio can improve its grade by making its initiative process more open and accessible to the average citizen.



 **Expand Citizen Access**

Lower the number of signatures needed to qualify: Ohio could gain a half point by lowering the number of signatures needed to qualify an initiative for a constitutional amendment to 8 percent or less of the votes cast for governor in the last election.

 **Expand Citizen Access**

Count each signature equally: Repealing the requirement that signatures be gathered from 44 of the state's 88 counties and allowing voters from any part of the state to sign the petition on equal footing would give Ohio an additional half point.

Additional Notes

Ohio law requires that proponents of a referendum submit a summary of the referendum, along with 1,000 initial signatures, prior to collecting signatures. The Secretary of State then has ten days to approve the summary and verify the signatures, the Attorney General then has another ten days to approve the summary. This takes 20 days off of the 90 given by the constitution to collect signatures on a referendum petition, effectively robbing the people of nearly a third of their constitutionally allotted petitioning time. In addition, the Attorney General may reject the summary, starting the process over and taking off another 20 days. Currently this process is under legal challenge by Citizens in Charge, a sister organization of Citizens in Charge Foundation, in the case *Citizens in Charge v Brunner*.

Oklahoma

C+
Score: 7.5

Oklahoma citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 15 percent of the votes cast for the highest office in the last statewide election — currently 219,399.

Oklahoma's Initiative & Referendum Rights



Constitutional Amendment—3 points

Oklahoma's state constitution authorizes citizens to propose constitutional amendments by petition. Oklahoma receives three points. (Oklahoma Constitution, Article V §2)

Statutory Initiative—3 points

Oklahoma's state constitution authorizes citizens to propose simple statutes by petition. Oklahoma received three points. (Oklahoma Constitution, Article V §2)

Referendum—2 points

Oklahoma's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Oklahoma receives two points. (Oklahoma Constitution, Article V §2)

Local Initiative—3 points

Residents of Oklahoma municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Oklahomans.

Restrictions on Oklahoma's Initiative & Referendum Rights

Insufficient Circulation Period for Statutory Initiatives—1 point deducted

Oklahoma petition sponsors have only 90 days to collect the required number of signatures to qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Oklahoma's short five-month period does not allow enough time.

Insufficient Circulation Period for Constitutional Amendments—1 point deducted

Oklahoma petition sponsors have only 90 days to collect the required number of signatures to qualify a constitutional amendment for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Oklahoma's short 90-day period does not allow enough time. (Oklahoma Statutes, §34-4)

High Signature Requirement (Constitutional Amendments)—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Oklahoma's signature requirement is above 10 percent of the number of votes cast for governor in the last election, a point was deducted.

High Signature Requirement (Statutory Initiatives)—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Oklahoma's signature requirement is above 5 percentage of the number of votes cast for governor in the last election, a half point was deducted.

Oklahoma can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ Expand Citizen Access

Lower the number of signatures needed to qualify: Oklahoma could gain a point by lowering the number of signatures needed to qualify an initiative for a constitutional amendment to 8 percent of the votes cast for governor in the last election or less, and could gain another half point by lowering the number of signatures needed to qualify an initiative for a statute to 5 percent of the votes cast for governor in the last election or less.

Increase the time to circulate petitions: Oklahoma could gain a point by increasing the circulation time to at least nine months for constitutional amendments and another point by increasing the period for statutory initiatives to at least nine months. (Oklahoma Statutes, § 34-4)

Additional Notes

Oklahoma ranks among the toughest states to qualify an initiative for the ballot, with the nation's highest signature requirement and second shortest circulation period. A proposed expansion of the petition period overwhelmingly passed the state legislature in 2009, but was vetoed by the governor. That same year a bill passed that moves the process for challenging the ballot title for an initiative to before signatures are collected, instead of afterward. Additionally, legislators placed a constitutional amendment on the ballot in 2010 allowing voters to decide whether to tie the number of signatures needed to the last election for Governor. Currently the number is tied to the highest office in the preceding elections, which resulted in a 37 percent increase in the number of signatures needed after the 2008 presidential election.

Oregon

B

Score: 8.5

Oregon citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 8 percent of the votes cast in the last statewide election — currently 110,358.

Oregon's Initiative & Referendum Rights



Constitutional Amendment—3 points

Oregon's state constitution authorizes citizens to propose constitutional amendments by petition. Oregon receives three points. (Oregon Constitution Article IV §1(2)(a))

Statutory Initiative—3 points

Oregon's state constitution authorizes citizens to propose simple statutes by petition. Oregon receives three points. (Oregon Constitution Article IV §1(2)(a))

Referendum—2 points

Oregon's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Oregon receives two points. (Oregon Constitution Article IV §1(3)(a))

Local Initiative—3 point

Residents of Oregon municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Oregonians.

Restrictions on Oregon's Initiative & Referendum Rights

Pay-Per-Signature Ban—1 point deducted

Oregon bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition by the number of signature they collect. While Oregon's law has been challenged and upheld by the federal Ninth Circuit Court of Appeals, similar bans have been more recently ruled unconstitutional. (Oregon Constitution, Article IV §1b)

High Signature Requirement for Statutory Initiatives—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Oregon's signature requirement for a statutory initiative is above 5 percentage of the number of votes cast for governor in the last election, a half point was deducted.

Guilt By Association Law—1 point deducted

Oregon chief petitioners (the legal proponents of a given initiative) are required to sign an acknowledgement that they are responsible for any violations of law committed by paid circulators in their employ "either directly or indirectly." This means that the leader of an initiative campaign can be charged with a felony and imprisoned for the actions of others, regardless of whether he or she had any knowledge that employees or contractors or even sub-contractors were in violation of any petition law. Because innocent people can be put in jail for the acts of others, this law puts a chilling effect on the petition process. During the debate prior to the legislation passing, one state senator said the bill gave her "the heebie jeebies." (ORS 260.561(b))

Oregon can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: Oregon could gain half point by lowering the number of signatures needed to qualify a statutory initiative to 5 percent of the votes cast for governor in the last election or less.

Repeal the unfair and almost certainly unconstitutional new law criminalizing Chief Petitioners for the actions of those employed or contracted by them. This would result in gaining one additional point. (ORS 260.561(b))

Eliminate Restrictions

Ease restrictions on paid circulators: Oregon could gain one point by repealing its ban on paying campaign workers according to the number of signature they collect. (Oregon Constitution, Article IV §1b)

Pennsylvania

F

Score: 1

Pennsylvania citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

Pennsylvania's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Pennsylvania municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, Pennsylvania should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Pennsylvania could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Pennsylvania could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Pennsylvania could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Pennsylvania could earn two additional points if the majority of state citizens had access to a local initiative and referendum process.

Rhode Island



Rhode Island citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Rhode Island's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Rhode Island municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Rhode Island should...



Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Rhode Island could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Rhode Island could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Rhode Island could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

South Carolina



South Carolina citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

South Carolina's Initiative & Referendum Rights

Local Initiative—3 points

Residents of South Carolina municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, South Carolina should...



Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** South Carolina could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** South Carolina could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** South Carolina could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

South Dakota



South Dakota citizens enjoy the right to propose constitutional amendments and state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a constitutional amendment on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 33,553.

South Dakota's Initiative & Referendum Rights



Constitutional Amendment—3 points

South Dakota's state constitution authorizes citizens to propose constitutional amendments by petition. South Dakota receives three points. (South Dakota Constitution, Article III §1)

Statutory Initiative—3 points

South Dakota's state constitution authorizes citizens to propose simple statutes by petition. South Dakota received three points. (South Dakota Constitution, Article III §1)

Referendum—2 points

South Dakota's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. South Dakota receives two points. (South Dakota Constitution Article III §1)

Local Initiative—3 points

Residents of South Dakota municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most South Dakotans.

Restrictions on South Dakota's Initiative & Referendum Rights

High Signature Requirement (Constitutional Initiatives)—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because South Dakota's signature requirement is above 8 percent of votes cast for governor in the last election, half a point was deducted. (South Dakota Constitution, Article XXIII §1)

Residency Requirement—1 point deducted

South Dakota bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights.

Pay-Per-Signature Ban—1 point deducted

South Dakota bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition according to the number of signatures they collect. Similar bans have been ruled unconstitutional in five states. (South Dakota Code, 12-13-28)

South Dakota can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: South Dakota could gain half a point by lowering the number of signatures needed to qualify an initiative for a constitutional amendment to 8 percent of the vote for governor in the last election or less. (South Dakota Constitution, Article XXIII §1)

Eliminate Restrictions

Allow people from outside of South Dakota to help South Dakotans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of South Dakota, would give South Dakota an additional point.

Ease restrictions on paid circulators: South Dakota could gain a point by repealing its ban on paying people who circulate the petition according to the number of signatures they collect. (South Dakota Code, 12-13-28)

Additional Notes

In 2009, the South Dakota legislature moved the date to turn in petition signatures from June to May, effectively permitting initiative proponents less time to organize an initiative campaign and collect the necessary signatures to access the ballot.

Tennessee

D

Score: **3**

Tennessee citizens do not have any state-wide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Tennessee's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Tennessee municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Tennessee should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Tennessee could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Tennessee could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Tennessee could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Texas



Texas citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Texas's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Texas municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Texas should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Texas could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Texas could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Texas could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Utah



Utah citizens enjoy the right to propose state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a state law on the ballot, citizens must collect the signatures of registered voters equal to 10 percent of the votes cast for governor in the last statewide election — currently 94,652. Utah citizens have no initiative process to propose amendments to the state constitution.

Utah's Initiative & Referendum Rights



Statutory Initiative—3 points

Utah's state constitution authorizes citizens to propose simple statutes by petition. Utah receives three points. (Utah Constitution, Article VI §1(A))

Referendum—2 points

Utah's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Utah receives two points. (Utah Constitution, Article VI §1(B))

Local Initiative—3 points

Residents of Utah municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Utahans. (Utah Constitution, Article VI §1(B)(b))

Restrictions on Utah's Initiative & Referendum Rights

High Signature Requirement for Statutory Initiatives—1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Utah signature requirement is above 8 percent of votes cast for governor in the last election, one point was deducted. (Utah Code, 20A-7-201)

Distribution Requirement—½ point deducted

Utah requires that, in addition to gathering signatures of 10 percent of voters from the last statewide election, for direct initiatives, proponents must gather 10 percent of the vote cast in at least 20 of the 29 counties. For indirect initiatives, proponents must gather 5 percent in at least 20 of 29 counties. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Utah Code, 20A-7-201)

Residency Requirement—1 point deducted

Utah bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (Utah Code, 20A-7-202(2)(i))

Utah can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Lower the number of signatures needed to qualify: Utah could gain one point by lowering the number of signatures needed to qualify a direct statutory initiative to 5 percent or less of the number of votes cast for governor. (Utah Code, 20A-7-201)

Allow citizens to propose state constitutional amendments: Utah could gain 3 points by creating a process for citizens to propose amendments to the state constitution by initiative.

Eliminate Restrictions

Count each signature equally: Repealing the requirement that signatures be gathered from 20 of the 29 counties in the state and allowing voters from any part of the state to sign the petition on equal footing, would give Utah an additional half point. (Utah Code, 20A-7-201)

Allow people from outside of Utah to help Utahans petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Utah, would give Utah an additional point. (Utah Code, 20A-7-202(2)(i))

Additional Notes

The Utah constitution requires that any initiated legislation to allow, limit, or prohibit the taking of wild-life or the season for or method of taking wildlife must get the approval of two-thirds of those voting on the measure to pass. (Utah Constitution, Article VI §1(B)ii)

Vermont

D
Score: **3**



Vermont citizens do not have any state-wide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Vermont's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Vermont municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Vermont should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Vermont could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Vermont could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Vermont could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Virginia



Virginia citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

Virginia's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some Virginia municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, Virginia should...



Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Virginia could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Virginia could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Virginia could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** Virginia could earn two additional points if the majority of state citizens had access to a local initiative and referendum

Washington



Washington citizens enjoy the right to propose state laws by petition, and to call a People's Veto (a state-wide referendum) on laws passed by the legislature. In order to place a state law on the ballot, citizens must collect the signatures of registered voters equal to 8 percent of the votes cast in the last election for governor — currently 240,228. Washingtonians have no process to propose amendments to their state constitution by petition.

Washington's Initiative & Referendum Rights



Statutory Initiative—3 points

Washington's state constitution authorizes citizens to propose simple statutes by petition. Washington receives three points. (Washington Constitution, Article II § 1(a))

Referendum—2 points

Washington's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Washington receives two points. (Washington Constitution, Article II § 1(b))

Local Initiative—3 points

Residents of municipalities have access to local initiative and referendum. The state receives a point for its local initiative and referendum processes and two additional points because the local initiative is available to most Washingtonians.

Restrictions on Washington's Initiative & Referendum Rights

Insufficient Circulation Period—½ point deducted

Washington petition sponsors have only six months to collect the required number of signatures to qualify an initiative or referendum for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and Washington's short six month period does not allow enough time. We deducted half a point from Washington's score because it does not give citizens enough time to circulate a petition. (Washington Constitution, Article II § 1(a))

High Signature Requirement for Statutory Initiatives—½ point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Washington's signature requirement is above 5 percent of the number of votes cast for governor in the last election, a half point was deducted. (Washington Constitution, Article II § 1(a))

Washington can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow citizens to propose state constitutional amendments: Washington could gain two points by creating a process for citizens to amend the state constitution by initiative.

Increase the time to circulate petitions: Washington could gain a half point by increasing the circulation period to at least nine months. (Washington Constitution, Article II § 1(a))

Lower the number of signatures needed to qualify an initiative: Washington could gain a half point by lowering the number of signatures needed to qualify a statutory initiative to 5 percent or less. (Washington Constitution, Article II § 1(a))

Additional Notes

The United States Supreme Court has agreed to hear a case over whether Washington's public information disclosure law applies to voter signatures on a petition. A group opposing a 2009 referendum sought to publish the names of those who had signed petitions on the Internet, with the ostensible purpose of allowing people to contact them and confront their viewpoint. Referendum supporters feared signers would be harassed for their position on the issue and argued that petition signers had a right to be anonymous. The case is *Doe v. Reed*.

West Virginia



West Virginia citizens do not have any statewide initiative and referendum rights. Some local jurisdictions do recognize initiative and referendum rights, but those rights are available to less than half the people of the state.

West Virginia's Initiative & Referendum Rights

Local Initiative—1 point

Residents of some West Virginia municipalities enjoy the power of initiative and referendum, so those citizens can affect laws and initiate government reforms at the local level.



To improve its score, West Virginia should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** West Virginia could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** West Virginia could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** West Virginia could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.
- **Expand local initiative and referendum rights:** West Virginia could earn two additional points if the majority of state citizens had access to a local initiative and referendum

Wisconsin



Wisconsin citizens do not have any statewide initiative and referendum rights. A majority of state citizens do enjoy local initiative and referendum rights.

Wisconsin's Initiative & Referendum Rights

Local Initiative—3 points

Residents of Wisconsin municipalities enjoy the power of local initiative and referendum. A majority of citizens in the state can affect laws and initiate government reforms at the local level.



To improve its score, Wisconsin should...

Expand Citizen Access

- **Allow citizens to propose state constitutional amendments:** Wisconsin could earn three points by creating a process for citizens to amend the state constitution through initiative.
- **Allow citizens to propose state laws:** Wisconsin could earn three points by creating a process for citizens to propose state laws through initiative.
- **Allow citizens to put acts passed by the legislature to a referendum vote:** Wisconsin could earn two points by creating a process whereby citizens can act as a final check on the legislature by putting acts passed by legislators to a vote of the people.

Wyoming

F

Score: 1.5

Wyoming citizens enjoy the right to propose state laws by petition, and to call a People's Veto (a statewide referendum) on laws passed by the legislature. In order to place a state law on the ballot, citizens must collect the signatures of registered voters equal to 15 percent of the votes cast in the last statewide election — currently 38,406. Wyoming citizens have no initiative process to propose amendments to their state constitution.

Wyoming's Initiative & Referendum Rights



Statutory Initiative—3 points

Wyoming's state constitution authorizes citizens to propose simple statutes by petition. Wyoming receives three points. (Wyoming Constitution, 97-3-052 (a))

Referendum—2 points*

Wyoming's state constitution authorizes citizens to call a statewide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject laws passed by the legislature. Wyoming receives two points. (Wyoming Constitution, 97-3-052 (a))

Local Initiative—0 points

Residents of Wyoming municipalities have no access to local initiative and referendum.

*Wyoming is the only state in which submission of sufficient signatures for a referendum does not stay the legislation that is being placed before voters. This means that statutes without popular support can go into effect, even if the impact might be irreparable.

Restrictions on Wyoming's Initiative & Referendum Rights

High Signature Requirement (Statutory Initiatives) —1 point deducted

High signature requirements make it very difficult to qualify an initiative or referendum for the ballot, and fall especially hard on grassroots volunteer efforts. Because Wyoming's signature requirement is above 8 percent of those who voted in the preceding general election, one point was deducted. (Wyoming Constitution, 97-3-052 (c)(i))

Distribution Requirement—½ point deducted

Wyoming requires that, in addition to gathering signatures of 15 percent of voters from the last statewide election, petition signatures must also be gathered from at least two-thirds of the counties in the State. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (Wyoming Constitution, 97-3-052 (c)(ii))

Residency Requirement—1 point deducted

Wyoming bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in other states have been struck down as unconstitutional violations of citizens' First Amendment rights. (Wyoming Statutes, 22-24-107(a))

Pay-Per-Signature Ban—1 point deducted

Wyoming bans paying campaign workers who help collect signatures on a ballot initiative, referendum or recall petition by the number of signatures they collect. Similar bans have been ruled unconstitutional. (Wyoming Statutes 22-24-125(a))

Wyoming can improve its grade by making its initiative process more open and accessible to the average citizen.



✓ **Expand Citizen Access**

Allow citizens to propose state constitutional amendments: Wyoming could gain three points by creating a process for citizens to amend the state constitution through initiative.

Allow citizens to create laws and call referendums at the local level: Wyoming could gain a point by giving citizens access to a local-level initiative process, and an additional two points if over 50 percent of the people in the state had access to a local process.

✓ **Eliminate Restrictions**

Count each signature equally: Repealing the requirement that signatures be gathered from two-thirds of the counties in the state and allowing voters from any part of the state to sign the petition on equal footing would give Wyoming an additional half point. (Wyoming Constitution, 97-3-052 (c)(ii))

Allow people from outside of Wyoming to help Wyomingites petition their government: Repealing the requirement that in order to circulate petitions one must be a resident of Wyoming would give Wyoming an additional one point. (Wyoming Statutes, 22-24-107(a))

Ease restrictions on paid circulators: Wyoming could gain a point by repealing its ban on paying petition circulators according to the number of signatures they collect. (Wyoming Statutes, 22-24-125(a))

Additional Notes

The Wyoming State Legislature passed a law in 1998 — banning paying campaign workers by the number of signatures they collect and instituting a distribution requirement — making it harder for initiatives to qualify for the ballot; since that time, no initiative sponsors have succeeded in navigating the state's complex and burdensome process.

District of Columbia



Though the District of Columbia is not a state, the District charter grants its citizens the power to create district-wide laws (statutory initiative) and subjects acts of the council to a district-wide referendum. In order to place an initiative or referendum on the ballot, citizens must collect signatures equal to 5 percent of registered voters district-wide at the time the petition is turned in, which is currently 20,895.* Additionally, signatures must also equal 5 percent of registered voters in at least five of the eight wards in the District. It is important to note that because of the special status attached to the nation's capital district, the United States Congress has final authority to accept or reject initiatives in the District.

District of Columbia's Initiative & Referendum Rights



Statutory Initiative—3 points

The District of Columbia's Charter authorizes citizens to propose simple statutes through the petition process. The District of Columbia receives three points. (District of Columbia Code, § 1-1001.16(a)(1))

Referendum—2 points

The District of Columbia's charter authorizes citizens to call a district-wide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject any act passed by the council. The District of Columbia receives two points. (District of Columbia Code, § 1-1001.16(a)(1))

Local Initiative—1 point

Because of the unique status of the District of Columbia and the fact that the District has only one municipality — Washington — the local initiative process is essentially the same as the district-wide initiative process. For comparison purposes, we awarded the District of Columbia one point under local initiative. (District of Columbia Code § 1-1001.16(a)(1))

Restrictions on the District's Initiative & Referendum Rights

Residency Requirement—1 point deducted

The District of Columbia bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in various states have been struck down as unconstitutional violations of citizens' First Amendment rights. (District of Columbia Code, § 1-1001.16(h)(5))

Distribution Requirement—½ point deducted

In addition to gathering petition signatures from 5 percent of registered voters, the District of Columbia requires that signatures must come from five of the eight wards in the city. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (District of Columbia Code, § 1-1001.16(i))

Insufficient Circulation Period for District Initiatives—½ point deducted

District of Columbia petition sponsors have only 180 days to collect the required number of signatures to

* The exact number of petition signatures needed is impossible to calculate prior to turning in petitions, as it depends on the number of registered voters on the district's rolls in the future—that is, at the time the signatures are submitted. Because lists of registered voters constantly change, as well as being notoriously out-of-date, Citizens in Charge Foundation urges setting petition requirements on a percentage of the last vote for mayor (or other districtwide office) rather than a percentage of registered voters.

qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and the District of Columbia's short six month period does not allow enough time. (District of Columbia Code, § 1-1001.16(j)(1))

The District of Columbia can improve its grade by making its initiative process more open and accessible to the average citizen.



Expand Citizen Access

Allow people from outside of District of Columbia to help District of Columbia residents petition their government: Repealing the requirement that one must be a resident of District to circulate petitions would give District of Columbia an additional point. (District of Columbia Code, § 1-1001.16(h)(5))

Increase the time period to circulate petitions: District of Columbia could gain a half point by increasing the circulation time period for district statutory initiatives to at least nine months. (District of Columbia Code, § 1-1001.16(j)(1))

Count each signature equally: Repealing the requirement that signatures be gathered from five of the eight wards in the district and allowing voters from any part of the district to sign the petition on equal footing, would give the District of Columbia an additional half point. (District of Columbia Code, § 1-1001.16(i))

Additional Notes

The power of the initiative process in the District of Columbia is severely limited by the fact that the United State Congress has the power to unilaterally keep measures off the district ballot and to invalidate initiatives passed by the voters. Also, the Washington City Council has the power to repeal initiatives as soon as they are passed by voters. Without protection from encroachment from these two bodies, residents rights are very tenuous.

2010 Signature Requirements for I&R

State	Const. Amend.	Statute	Referendum	Circ. Period
Alaska	No Process	10% (Gov.) 32,734	10% (Gov.) 32,734	1 year
Arizona	15% (Gov.) 230,047	10% (Gov.) 153,365	5% (Gov.) 76,682	620 days
Arkansas	10% (Gov.) 77,468	8% (Gov.) 61,974	6% (Gov.) 46,481	unlimited
California	8% (Gov.) 694,354	5% (Gov.) 433,971	5% (Gov.) 433,971	150 days
Colorado	5% (Sec. of State) 76,047	5% (Sec. of State) 76,047	5% (Sec. of State) 76,047	6 months
Florida	8% (Presidential) 676,811	No Process	No Process	4 years
Idaho	No Process	6% (Reg. Voters) 51,712	6% (Reg. Voters) 51,712	18 months
Illinois	8% (Gov.) 278,934	No Process	No Process	18 months
Maine	No Process	10% (Gov.) 55,087	10% (Gov.) 55,087	1 year
Maryland	No Process	No Process	3% (Gov.) 53,649	1-5 months
Massachusetts	3% (Gov.) 66,593	3% (Gov.) 66,593	2% (Gov.) 44,396	64 days
Michigan	10% (Gov.) 382,129	8% (Gov.) 305,703	5% (Gov.) 191,065	180 days
Mississippi	12% (Gov.) 89,284	No Process	No Process	1 year
Missouri	8% (Gov.) approx. 230,222*	5% (Gov.) approx. 143,888*	5% (Gov.) approx. 143,888*	16 months
Montana	10% (Gov.) 48,673	5% (Gov.) 24,336	5% (Gov.) 24,336	1 year
Nebraska	10% (Gov.) 117,000	7% (Gov.) 82,000	5% (Gov.)	1 year
Nevada	10% (Gen. Election) 97,002	10% (Gen. Election) 97,002	10% (Gen. Election) 97,002	11 & 10 months
North Dakota	4% (Population) 25,688	2% (Population) 12,844	2% (Population) 12,844	1 year
Ohio	10% (Gov.) 402,275	3% (Gov.) x2 120,683**	6% (Gov.) 241,365	1 year

* This depends on which six of the nine congressional districts the signature collectors choose the totals needed will vary.

** Ohio statutory initiative proponents are required to submit 3% (120,683) to put the measure before the Legislature, if Legislature doesn't pass it, another 3% (120,683) is needed to put the measure on the ballot.

2010 Signature Requirements for I&R

continued

State	Const. Amend.	Statute	Referendum	Distr. Period
Oklahoma	15% (Gov) 219,400	8% (Gov) 117,013	5% (Gov) 73,134	1 year
Oregon	8% (Gov) 110,358	6% (Gov) 82,769	4% (Gov) 55,179	unlimited
South Dakota	10% (Gov) 33,551	5% (Gov) 16,776	5% (Gov) 16,776	1 year
Utah	No Process	10% (Gov) 94,652	10% (Gov) 94,652	unlimited
Washington	No Process	8% (Gov) 241,153	4% (Gov) 120,577	6 months
Wyoming	No Process	15% (Gov) 38,406	15% (Gov) 38,406	18 months

Restrictions Explained

Distribution Requirements

A distribution requirement is a legislative or state constitutional mandate requiring that petitions for a ballot measure be signed by voters from a number of political subdivisions – such as counties or congressional districts – in order for the measure to qualify for the ballot.

Supporters of distribution requirements argue that they are a way of demonstrating “widespread support” for a ballot measure because registered voters from a number of political subdivisions signed petitions. Opponents point to the fact that these requirements diminish the voice of voters in certain districts while unfairly amplifying the voice of voters in other districts.

Distribution requirements can significantly drive up the cost and difficulty of a petition drive by increasing the complexity, and thus the degree of management required to succeed. When distribution requirements are based on geographic rather than population-based boundaries, forcing signatures to be collected in sparsely populated areas, the costs are further increased.

Federal courts have universally struck down non-population-based distribution requirements as violations of the Constitution’s equal protection clause—the “one man, one vote” principle.

Distribution requirements have been struck down in five states:

Illinois: *Moore v. Oglivie*, 1969

Idaho: *Idaho Coalition United for Bears v. Cenarrusa*, 2001

Utah: *Gallivan v. Walker*, 2002

Montana: *Montana PIRG v. Johnson* 2005

Nevada: *ACLU v. Lomax*, 2006

Distribution requirements are currently under legal challenge in three states: Nebraska, Nevada and Ohio.

Residents of the following states must gather petitions under a political district or geographic distribution: Alaska, Arkansas, Florida, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, Ohio, Utah, and Wyoming.

Payment Per Signature Bans & Limitations

Several states — including Alaska, Colorado, Montana, Nebraska, North Dakota, Oregon, South Dakota and Wyoming — ban, limit or restrict pay-

ing campaign workers who collect signatures on a ballot initiative, referendum or recall petition based on the number of signatures they collect.

Supporters of a ban or other limitations on compensating people circulating a petition on the basis of the number of signatures they gather argue such payments create a financial incentive to fraudulently produce signatures. There is little, if any, empirical evidence for this position, however. Moreover, every state, with the exception of Oklahoma, checks the actual signatures to determine their validity – either by verifying all the signatures or a scientifically valid random sample.

The number of signatures that states require and the limited time period in which to collect them makes it necessary in most cases to hire paid circulators. Opponents of laws preventing petition campaigns from rewarding more productive workers argue these pay-per-signature bans increase overall costs and retard productivity, often jeopardizing a campaign’s ability to make the ballot.

Payment on a per-signature basis also allows initiative proponents far greater certainty in judging the cost of a petition effort, and thus, improves their ability to secure the necessary funding. Moreover, in states that have passed payment-per-signature bans, the cost of successfully completing a petition drive has risen considerably, sometimes more than doubling.

The federal courts have a mixed record in deciding the constitutionality of restrictions on how workers can be paid, though more often such bans have been overturned.

Federal courts have upheld laws restricting payments to petition circulators on a per-signature basis in these states:

North Dakota: *Initiative & Referendum Institute v. Jaeger*, 2000

New York: *Person v. New York State Board of Elections*, 2006

Oregon: *Prete v. Bradbury*, 2006

Federal courts have struck down laws restricting payments to petition circulators on a per-signature basis in these states:

Colorado: *Meyer v. Grant*, 1988

Washington: *LIMIT v. Maleng*, 1993

Mississippi: *Term Limits Leadership Council v. Clark*, 1997

Maine: *On Our Terms '97 PAC v. Secretary of State of Maine*, 1998

Ohio: *Citizens for Tax Reform v. Deters*, 2008

Note: Ohio's ban on payments to people petitioning, based on the number of signatures gathered, was overturned by a federal district court in Ohio. On appeal, the district court decision was affirmed by the federal Sixth Circuit Court of Appeals. The State of Ohio then appealed to the U.S. Supreme Court, which refused to hear the case, leaving intact the decision striking down the Ohio law.

Residency Requirements

Residency requirements are one of the most frequently imposed—and frequently struck down as unconstitutional—restrictions on the initiative and referendum process. These laws require that someone circulating a petition for an initiative, referendum, or recall be a resident of the state, county, or locality in which those signing must reside.

Petition drives involve contacting a massive number of voters over a very limited amount of time, often requiring a large number of campaign workers.

Supporters of residency requirements argue the restriction is needed to reduce fraud and insure that circulators can be found and questioned if signatures are challenged. Because requiring campaign workers to be state residents limits the number of people—especially professional petition circulators—that petition efforts can hire during a campaign, it necessarily limits the speech of both petition supporters and voters, who may want to sign a petition but can't find one to sign.

Residency requirements are almost impossible to enforce while a petition is being circulated. As a result, voters are often disenfranchised when their signature on a petition is thrown out by election officials because a circulator did not meet the residency requirement. This is compounded when qualifications for residency are unclear or arbitrarily enforced by officials. Critics of residency requirements claim they also prevent petition proponents from using professional signature collectors, who are better able to collect the high number of signatures needed in the time allowed.

Residency requirements in three states—Arizona, Ohio, and Oklahoma—were struck down by

federal courts in 2008 for violating the First Amendment. Michigan's residency requirement regarding local recall petitions was struck down in late 2009. In all four cases, the courts determined that residency requirements necessarily reduce the free exercise of political speech by reducing the number of people who are able to carry a political message, i.e. a petition. The courts have also noted that non-resident circulators are no more likely to commit fraud than resident circulators, undercutting one of the main arguments of residency requirement supporters.

On March 9, 2009 the U.S. Supreme Court denied the state of Arizona's appeal in the residency case *Nader v. Brewer*, confirming the lower court ruling that overturned the state's residency law.

Other major residency cases are:

Illinois: *Krislov v. Rednour*, 2000

North Dakota: *Initiative & Referendum Institute v. Jaeger*, 2000

Ohio: *Nader v. Blackwell*, 2008

Oklahoma: *Yes on Term Limits v. Savage*, 2008

Michigan: *Bogaert v. Land*, 2009

Guilt By Association Laws

In 2009, two states—Arizona and Oregon—passed new restrictions on the initiative petition process, including a brand new provision that criminalizes the proponent of a ballot proposition (in Oregon) or those managing or hiring petition circulators (in Arizona) with a felony if five or more people working on the effort are found guilty of a misdemeanor violation of petitioning rules.

These laws amount to “guilt by association.” Neither new law has yet been challenged in court, but the concept of holding petition leaders criminally liable for actions taken by others without their knowledge or permission is certainly foreign to our judicial system.

Both laws threaten to chill political activity through the fear of criminal penalties. Former Oregon State Senator, now Oregon State Director for Rural Development with the U.S. Department of Agriculture, Vicki Walker said the possible chilling effect of this law gave her “the heebie-jeebies.” With such a potential threat hanging over leaders or managers of an initiative effort, there will likely be fewer initiatives attempted.



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For more information visit: www.CitizensInCharge.org.

Citizens in Charge Foundation
2050 Old Bridge Road
Suite 103
Lake Ridge, VA 22192
(703) 492-1776