



## League of Women Voters of Maine

# Study Report on Citizens' Initiatives and People's Veto Referenda

### Study Committee Members:

Beth Basham  
Barbara Kaufman  
Valerie Kelly  
Kim Peaslee  
Judy Whiting

## Contents

List of Tables .....	ii
List of Figures .....	ii
List of Appendices (see separate document) .....	ii
Acknowledgments .....	iii
List of Acronyms and Abbreviations .....	iv
1. Origin and Goals of the Study .....	1
2. “Participatory” (or “Direct”) Democracy within Representative Government .....	3
3. Maine Citizens’ Initiatives and People’s Veto Referenda: 1908–2018 .....	8
A. How Many CI/PVR Have Maine Citizens Introduced? .....	8
B. What Are the Issues and Outcomes Associated with Maine’s CIs/PVRs? .....	8
C. What are the CI/PVR Pass/Fail Margins? .....	10
D. How Often Have CIs/PVRs Confronted Implementation Challenges? .....	10
E. Evolution of CI/PVR Rules since 1908: What Changed and Why? .....	10
4. The CI Process in Maine: Frequently Asked Questions .....	13
A. Getting Started .....	13
B. The Legislation Drafting Process .....	13
C. Signature Gathering, Certification and Validation Process .....	17
D. Steps Following Petition Validation .....	19
E. After the Vote: Potential Challenges to Enactment and Implementation .....	19
5. Highlights of the People’s Veto Referendum Process .....	22
A. Similarities between CI and PVR processes .....	22
B. Differences between CI and PVR processes .....	22
6. Resources and Information Available during the Petition Process .....	24
A. Information for Applicants/Proponents .....	24
B. Information for the General Public .....	24
7. Opportunities for Public Input .....	26
A. Public Comment on Ballot Question Language .....	26
B. Public Legislative Hearings .....	26
C. Submission of Pro/Con Statements for the Citizen’s Guide .....	27
8. Types of Voter Information Available at Election Time .....	30
A. Official Government Sources of Voter Information .....	30
B. Non-Governmental Sources of Voter Information .....	31

9. How Does Maine Manage Ballot Question Campaign Finance? .....	33
A. Campaign Finance Monitoring Structure and Regulations .....	33
B. Estimated Levels of Ballot Question Financing in Maine: Does it Matter? .....	35
C. Ballot Question Finance Information Directly Available to Voters .....	36
Glossary .....	38
References Cited .....	45

## List of Tables

Table 3.1. Numbers and topics of CI/PVR on the ballot .....	8
Table 3.2. CI/PVR topics and outcomes: 1996-2018 .....	9
Table 3.3. CIs/PVRs associated with complex outcomes due to post-election legislative action.....	11
Table 7.1. Television Advertising in Maine for 2016 Citizen Initiatives .....	32

## List of Figures

Figure 9.1. Estimates of Total Spending on Citizen Initiated Ballot Questions by Year .....	35
Figure 9.2. Estimates of Average Spending Per Citizen Initiated Ballot Question by Year .....	35

## List of Appendices (see separate document)

2.1. Early History of the Initiative and Referendum Processes in Maine
3.1. Chronological Summary of CI/PVR Reforms: 1931-2017
3.2. CI/PVR Bills Considered by the 129th Legislature
4.1. Types of Assistance Offered to Citizen Initiative Applicants During the Legislation Drafting Period
7.1. Summary of Pro/Con Public Comments Printed in the Maine Citizen’s Guide: 2006 - 2018
9.1. Comparison of Ballot Question Financing Rules for Selected States
9.2. Ballot Question Financing in the News
9.3. Inconsistencies in Estimates of Ballot Question Expenditures

## Acknowledgments

The Study Committee is indebted to the many individuals who shared their expertise and opinions on the initiative and referendum process with us.

Representatives of the government services most heavily involved in the management of the CI/PVR process were particularly helpful in educating the study committee about the process; this included Julie Flynn, representing the Maine Department of the Secretary of State and Jonathan Wayne and Paul Lavin at the Maine Ethics Commission.

Representatives from different political perspectives who agreed to share with us their views on the strengths and weaknesses of the initiative and referendum process in Maine provided a broad and varied perspective on the process; these contacts included Erik Gunderson (D), Senator Brian Langley (R), Barbara Campbell Harvey (R), Dick Woodbury (I).

John Brautigam, former Maine Citizens for Clean Elections (MCCE) and League of Women Voters of Maine (LWVME) board member, was always available via email to help with researching legislative history and interpreting legislative documents.

Several individuals involved in past initiative and referendum campaigns shared their views and experiences with Study Committee members. Among these contributors were Ben Chin (Maine People's Alliance), Jacob Posik (Maine Heritage Policy Center), Anna Kellar (Maine Citizens for Clean Elections), Ann Luther (League of Women Voters of Maine) Valerie Lovelace (Death with Dignity CI), and Adam Pontius (People's veto of the Legislature's delay of ranked-choice voting implementation).

The 90 librarians who responded to our survey assessing access to and use of voter information about CI/PVR made an important contribution to our understanding of the public information aspects of CI/PVR.

We thank Suzanne Carmichael, who was a member of the Study Committee from November 2018 to April 2019, for her numerous contributions, which included conducting research on voter information issues and managing our outreach efforts to inform members of our progress and ask them for feedback on selected topics. Another very important contribution to the study came from Linda Washburn and Sheila Kirby, LWVME members who agreed to be the first readers for our documents. They raised excellent questions and offered much needed editing suggestions that have improved the study documents tremendously.

We want to thank Richard Ellis of Willamette University and Michael Franz of Bowdoin College who, via email exchanges, helped us better understand their research on the topic of initiatives and referenda and directed us to additional academic resources addressing the topic from a national perspective.

Also at the national level, we are particularly grateful to members of the League of Women Voters in California, Washington State, Oregon, Michigan, and Minnesota who responded to our email enquiries about their studies and positions on initiatives and referenda. The League of Women Voters in Massachusetts shared materials from their 2019 initiative and referenda study with us and invited Study Committee members to participate in one of their consensus meetings.

## List of Acronyms and Abbreviations

BQC	Ballot question committee
CI	Citizens' initiative
Ethics Commission	Maine Commission on Government Ethics and Election Practices
L.D.	Legal document
LWVCA	League of Women Voters of California
LWVMA	League of Women Voters of Massachusetts
LWVME	League of Women Voters of Maine
LWVOR	League of Women Voters of Oregon
LWVWA	League of Women Voters of Washington state
MHPC	Maine Heritage Policy Center
NCSL	National Conference of State Legislatures
OFPR	Office of Fiscal and Program Review
ORS	Office of the Revisor of Statutes
P.L.	Public Law
PAC	Political action committee
PVR	People's veto referendum
SoS	Maine Department of the Secretary of State or Maine Secretary of State

# 1. Origin and Goals of the Study

In 1908, Maine became the first state east of the Mississippi River to adopt a constitutional provision for statewide initiatives and referenda. The 1909 enactment of the constitutional amendment introduced two new tools for citizens to use:

- Citizens' Initiatives (CI) permitting citizens to introduce new legislation via a petition process,
- People's Veto Referenda (PVR) permitting citizens to repeal recently passed legislation.

Since 1909, there have been 14 constitutional amendments and 50 statutes enacted to reform the process.<sup>1</sup> The League of Women Voters of Maine (LWVME), often in collaboration with other partners, has been an active participant in Maine's initiative process by helping to organize CI and PVR campaigns. Examples include:

- opposition to initiatives proposing term limits and those restricting voters' rights,
- introduction and support of Maine Clean Elections initiatives,
- introduction and support of ranked-choice voting initiatives and veto of legislation to postpone implementation of ranked-choice voting,
- support of initiatives protecting civil rights.

Although LWVME has a variety of position statements<sup>2</sup> on representative government (e.g., voters' rights, citizens' rights, elections, money in politics), it does not have position statements that directly address policies concerning citizen-initiated legislation. Given the constant flow of reform recommendations, the LWVME board members felt it important to establish a position statement permitting the organization to support or oppose reform proposals when presented to the Maine State Legislature. In 2017, the State Board recommended and the LWVME Convention accepted a proposal to conduct a study of Maine's citizen-initiated legislative process.

Following a Study Committee review of study reports and position statements prepared by the League of Women Voters in the states of California, Massachusetts, Oregon, and Washington, the Committee determined that Maine's process was unique and that none of the position statements of the other Leagues could be adopted by the LWVME through concurrence. Consequently, the Board adopted the following guidelines for the Study Committee:

The Citizen Initiative Study Committee will conduct a comprehensive review of the history, process, uses, restrictions, and financing of citizen-initiated legislation and referenda in Maine and elsewhere. The study will use information from a variety of reliable, balanced sources to inform membership about the strengths and weaknesses of the current citizen initiative system in Maine and the pros/cons of alternative systems. Reports, consensus questions and study guides developed by the Committee will contribute to the development of a LWVME consensus-based position statement on citizen-initiated legislation that is supported by League membership and consistent with other League positions, principles and values.

---

<sup>1</sup> See Maine State Legislature, Legislative History Collection (2017, Sep) for a listing of [statutes](#) relevant to CI/PVR and (2017, May) for a listing of CI/PVR [constitutional amendments](#).

<sup>2</sup> See LWVME, [Impact on Issues](#) (2019, Jan) and LWVUS, [Impact on Issues](#): 2018-2020 (2019).

Over the course of its work, the Study Committee has researched this topic through a variety of sources and activities, which included:

- a review of Maine’s statutes and constitutional amendments concerning CI/PVR and how they have changed over time;
- a review of the use of CI/PVR from 1909 to present;
- a review of the current process for filing CI/PVR applications, collecting signatures, certifying and validating petitions, getting CI/PVR on the ballot, and enacting voter-approved CI/PVR;
- a review of legislation on campaign finance and the characteristics of the campaign finance data available to the public for CI/PVR;
- a review of information compiled by other Leagues that have conducted similar studies, primarily MA, but also CA, OR, WA, MI, and MN;
- identification of principles to use in evaluating the CI/PVR process in Maine;
- phone and email interviews with representatives of Maine political parties, to understand their views on Maine’s CI/PVR process;
- phone and email interviews with both ballot question organizers and representatives of government agencies involved in the implementation of the CI/PVR process;
- A broad literature review of the different approaches to CI/PVR used in the U.S.

The Study Committee produced two documents: a Study Report and a Consensus Question Packet. This Study Report is a compilation of what we learned. It provides background information about citizen-initiated legislation and people’s veto referenda in Maine and throughout the U.S. The Consensus Question Packet contains the 11 consensus questions the Study Committee wants local units to consider and summarizes information from the Study Report that is directly relevant to each question. While we hope many members will have time to review the entire Study Report, everyone should be able to fully participate in their local unit consensus meetings if they are familiar with the materials in the Consensus Question Packet.

## 2. “Participatory” (or “Direct”) Democracy within Representative Government

*The United States shall guarantee to every State in this Union a Republican Form of Government... (U.S. Constitution, Article IV, Section IV).*

A “Republican Form of Government” is based on citizens holding the “supreme power” but exercising that power through the election of representatives as noted in the definition of “republic” below:

**1** : a government having a chief of state who is not a monarch and is usually a president; also : a nation or other political unit having such a government **2** : a government in which supreme power is held by the citizens entitled to vote and is exercised by elected officers and representatives governing according to law; also : a nation or other political unit having such a form of government ([Constitutional Dictionary, 2010](#)).

By the 1890s and 1900s, members of the Populist and Progressive movements throughout the U.S. became disenchanted with a purely “Republican” or representative government and its inability to effectively address their problems. Citizens began to search for a means by which they could get their reforms approved in spite of the state legislatures that were blocking their proposals. Their search culminated in reforms that authorized the following tools to increase the direct participation of citizens in their democracy:

*Citizens’ Initiative (CI)* – a law or constitutional amendment introduced by citizens through a petition process either to the legislature or directly to the voters.

*People’s Veto Referendum (PVR)* – a process by which voters may petition to demand repeal by a popular vote of a new law passed by the legislature.

There are two types of initiatives: direct and indirect. The direct initiative is presented directly to voters without first being submitted to the legislature. The indirect initiative is submitted to the legislature; if the legislature does not enact the law without revisions, the proposed legislation is put to the voters as a ballot question in a general or special election. Unfortunately, the terminology used in Maine’s State Constitution and statutes is confusing because these documents refer to Maine’s initiative as a “direct” initiative, even though all initiatives must go to the legislature before they go to the ballot. To avoid confusion, the Study Committee does not use the adjectives “direct” or “indirect” when referring to proposals for new legislation introduced by Maine citizens; instead we use the more general term Citizens’ Initiative (CI).<sup>1</sup>

The initiative and referendum are often referred to as tools of “participatory” or “direct” democracy and contrasted to the concept of purely “representative” democracy in which voters elect representatives who make all the decisions about laws and policies. Throughout this report, we use the term “participatory” democracy when referring to political systems where voters have the right to participate in government through initiatives and referenda; some authors cited use the term “direct” democracy.

---

<sup>1</sup> The only exception is when we cite official texts that use the term “direct initiative.”



The distinguishing feature of participatory democracy is that voters determine policy outcomes. As practiced in the United States, participatory democracy occurs exclusively at the state and local levels, although not uniformly.<sup>2</sup> Citizen Initiatives give “the people,” typically operating through interest groups, the power to place new laws on the ballot for voter consideration if a certain number of signatures are collected through a petition process (Nicholson and Canelo, 2016). Early concepts of participatory democracy differed by region and political ideologies. As Miller (2009) noted:

The populist conception of direct democracy was quite radical. According to this view, the common people were capable of governing themselves with little mediation by representatives and should be allowed to override their representatives whenever they wished. (p. 26)

Miller (2009) further noted that:

The mainstream progressives, especially in the East, distanced themselves from the populist view of direct democracy. Instead, they believed direct democracy should be used sparingly, and mainly for the purpose of restoring the health of the representative system. (p. 27)

Maine is generally considered to be part of the mainstream progressive group. After a prolonged effort from 1902 through 1908 by a variety of actors, Maine voters approved a constitutional amendment by a two-thirds majority authorizing Citizen’s Initiatives (CI) and People’s Veto Referenda (PVR).<sup>3</sup>

The Maine proponents of participatory democracy did not seek authority to initiate constitutional amendments—a tool of participatory democracy now authorized in 18 states, with varying requirements. [Ballotpedia \(n.d. Amending State...\)](#) notes that in several states (e.g., Illinois, Mississippi, Massachusetts, and Oklahoma), the requirements for submitting a proposed constitutional amendment to be voted on through an initiative process are onerous and the process is rarely used. Three states (Florida, Montana, and Nebraska) have recently made the process more difficult. Although one state (Nevada) requires that a constitutional amendment be approved by voters in two consecutive general elections, 26 citizen-initiated constitutional amendments reached the Nevada ballot between 1995 and 2018 ([Ballotpedia, n.d. Nevada State...](#)). States where the process has historically proven to be manageable for citizens include Arizona, Arkansas, California, Colorado, Missouri, North Dakota, Ohio, and South Dakota.

The rules established for getting a constitutional initiative on the ballot is a critical element in how frequently and successfully the constitutional initiative is used. In Oregon, for example, the process is “direct” and does not need to pass through the legislature. Although the number of signatures required for a constitutional amendment is greater than that for a statute, the former has been used much more frequently in recent years. Since 1902, the Oregon Constitution has been amended 45 times by initiative (City Club of Portland, 2008, p. 22). Studies of the Oregon system note:

---

<sup>2</sup> In the early 2000s there were efforts to introduce a national citizens’ initiative, but with little success to date (see [National Citizens Initiative for Democracy \(NCID\)](#) website). Studies by Cronin (1989), Broder (2000), and Ellis (2002) discussed the pros and cons of this reform. Because our study focuses on state-level initiative and referendum processes, we do not cover this effort in any detail in this report.

<sup>3</sup> History enthusiasts can refer to Appendix 2.1 for details on the colorful personalities involved in the battle for citizen-initiated statutes and referenda and a description of the obstacles they had to overcome.

Traditionally most of Oregon’s initiatives were written as statutory law. But in every election since 1994, over half the initiatives have been constitutional amendments and in 2000, two-thirds were constitutional.... Some initiative writers like constitutional amendments because they can only be changed by another vote of the people. Others believe that the Oregon Constitution, as the basic framework of government, has become cluttered with details that should be in the statutes (League of Women Voters of Oregon [LWVOR], 2001, pp.1-2).

As these amendments accumulate, the role of the Legislature as the principal lawmaking body of the state is diminished because initiatives placed in the constitution are effectively beyond the control of the Legislature. (City Club of Portland, 2008, p. iv)

Massachusetts also allows citizen-initiated constitutional amendments, but with a more difficult path to passage than that in Oregon. Since 1919, only three citizen-initiated constitutional amendments have made it to the ballot and only two passed. The process calls for 25% of two consecutive legislatures to approve putting the initiative on the ballot after the petition has been approved by the attorney general. It is also possible for the legislature to block the initiative’s path to the ballot by adjourning the legislative session before a vote. This occurred in 2001, when the legislature was faced with a controversial initiative about the definition of marriage (League of Women Voters of Massachusetts [LWVMA], 2018, p. 5 & 11).

At present, a Maine constitutional amendment cannot be proposed by a CI. The Maine Constitution can only be amended through a two-step process. First, two-thirds of both houses of the Maine State Legislature must approve a proposed constitutional amendment for it to appear on a ballot. The proposed amendment must be sponsored by a member of the Legislature. Second, a majority of voters must approve it. The popularity of constitutional amendment initiatives in other states led the Study Committee to review these experiences and develop a consensus question (CQ11) on the topic.

Participatory democracy concepts are not without controversy. Many of the early arguments for and against initiatives and referenda (see textbox) are still heard today.

#### **Early Arguments for and against the Initiative and Referendum Process**

1. “In a 1911 interview, Woodrow Wilson explained, ‘For twenty years I preached to the students of Princeton that the Referendum and Recall was bosh, ... I have since investigated, and I want to apologize to those students. It is the safeguard of politics. It takes power from the boss and places it in the hands of the people. ....’ The new convert helped to define a nuanced progressive understanding of ‘power in the hands of the people’ that was distinct from the populist conception.” (Miller 2009, p. 27)
2. “In a series of speeches in 1912, ... [Theodore] Roosevelt embraced the initiative and referendum as useful expedients that ‘...should not be used to destroy representative government, but to correct it whenever it becomes misrepresentative.... [It] has been found in very many States that legislative bodies have not been responsive to the popular will. Therefore I believe that the State should provide for the possibility of direct popular action in order to make good such legislative failure’”. (Miller 2009, p. 28)
3. “Applying Madisonian analysis, Taft, Root, and Lodge set forth the basic objections to direct democracy that persist to this day. To summarize:
  - Direct lawmaking provides an inferior form of deliberation;
  - Voters are incompetent to enact complex initiative legislation;
  - Special interests can manipulate the initiative process;
  - Direct lawmaking undermines representative institutions; and
  - The initiative process threatens individual and minority rights.” (Miller 2009, p. 31)

Miller (2009) notes that during the Progressive Era, supporters of the process accurately predicted many of its positive effects.

Advocates ... believed that the initiative process would increase citizen participation, promote public education on policy issues, increase accountability of elected officials, and make government more responsive to the popular will. Although it has done so imperfectly, the initiative process has, in fact, achieved these goals.<sup>4</sup> (p. 217)

Miller (2009) also notes that the early critics of the initiative process accurately predicted many of the system's troublesome effects.

As they expected, initiatives are too often poorly drafted, poorly understood, and immoderate. Moreover, as they predicted, the system has eroded the legislature's authority on fiscal and other important policy matters. And as they feared, direct democracy has, at times, deepened factional divides and threatened minority and individual rights by putting those rights to a direct popular vote.<sup>5</sup> (pp. 217-218)

Cronin (1989) conducted one of the earliest studies of the initiative and referendum process. After comparing the characteristics of representative and participatory democracies, he concluded by calling for a "sensible" democracy "...that recognizes the cherished values of both the representative and popular [participatory] models (p. 249)." In his view<sup>6</sup>, hybrid democracy values:

- representative institutions, in which elected officials make most decisions;
- trusting representatives most of the time and distrusting concentration of power in a single institution;
- majority rule, but understand the need to protect minority rights most of the time;
- trusting the general public's decisions sometimes, but also distrusting majority opinion sometimes.

This hybrid democracy would have as goals:

- improving the legislative process;
- enabling the public to occasionally vote on public policy issues;
- providing a safety-valve recall or vote of no confidence...but which is difficult to use;
- improving the access of a common person to run for office and use the tools of participatory democracy;
- lessening the influence of secrecy, money, and single interest groups in decision making.

Other analysts of the initiative and referendum process in the U.S. (e.g., Broder, 2000 and Ellis, 2002) tended to focus on the problems of participatory democracy, particularly those encountered in states like California, Colorado, Oregon, and Washington, which have hosted the largest numbers of initiatives for many years. Despite the problems identified in their research, Broder and Ellis, like Cronin, did not find much popular enthusiasm for doing away with the tools of participatory democracy. Given the

---

<sup>4</sup> [Bowler et al. \(1998\)](#) make these same points about the positive attributes of initiatives and referenda.

<sup>5</sup> We have cited Miller (2009); but these critiques are also found in Cronin (1989), Broder (2000), and Ellis (2002).

<sup>6</sup> Bullets below summarize/paraphrase key points about Cronin's values and goals for a "sensible" democracy (pp.249-250).

popular support for the underlying concept of participatory democracy, the past two decades of national experience has focused on how to improve the tools rather than doing away with them.

### 3. Maine Citizens’ Initiatives and People’s Veto Referenda: 1908–2018

#### A. How Many CI/PVR Have Maine Citizens Introduced?

Between 1911 and 2018, Maine citizens proposed 74 CIs that were validated by the Secretary of State (SoS). Of these, 39% went to ballot, passed, and became law; 53% failed to pass at ballot; and 8% were enacted as laws or amendments by the Legislature and never went to ballot.

Between 1911 and 1947, eight CIs appeared on the ballot, and then there were none until 1971. Since 1971, 66 initiatives appeared as ballot questions, reflecting a surge in voter activism. On the PVR side, 31 have gone to ballot since 1909. Of these, 61% passed, thereby repealing existing legislation.

Since 1996, the average number of CIs per year has fluctuated in a narrow range regardless of who was in the Blaine House (Table 3.1).

**Table 3.1. Numbers and topics of CI/PVR on the ballot: 1996–2018**

Governor/Party	Average No. Per Year	Dominant Topics
Gov Angus King, Ind, 1996-2004	2.2	Forestry and social issues
Gov John Baldacci, D, 2004-2012	2.5	Taxation-budgets, tax rates, or tax changes to promote education, environmental protections, gambling
Gov Paul LePage, R, 2012-2020	1.9	Social issues and election processes

Source: Compiled by the Study Committee from data retrieved at Maine State Legislature, Legislative History Collection (2019, May).

Although the annual averages are higher than the average of 1.5 from 1971 to 1995, this does not seem to suggest an alarming trend nor is there any discernable relationship between party control of the government and number of initiatives introduced. Although the numbers of CIs did not vary significantly by administration in the more recent period, the topics of the initiatives did.

CI/PVRs represent a small fraction of all legislation passed by the Maine Legislature. In 2016, when the five CIs on the ballot represented an historical high reached only once before (in 2009), the 127th Legislature (2014–2016) passed 513 Statutes, 90 Resolves, and considered 1703 Legislative Documents (L.D.).<sup>1</sup>

#### B. What Are the Issues and Outcomes Associated with Maine’s CIs/PVRs?

The 45 CIs/PVRs from 1996 to 2018 addressed eight issue areas, as summarized in Table 3.2. The Outcome/Comment column illustrates that after the Secretary of State (SoS) has validated a CI or PVR as having met the signature requirements, the citizen-initiated action can follow a variety of paths. Roughly half of the CIs/PVRs passed since 1996 have followed a straightforward path to enactment and implementation. For others, the petitioning organization can find that its work is not yet finished once the ballot question passes. In such cases, additional resources are needed for court battles and/or interacting with the Legislature.

<sup>1</sup> Calculated from information at [Maine State Legislature, Legislative History Collection, 127<sup>th</sup> Legislature](#) (2015).

**Table 3.2. CI/PVR topics and outcomes: 1996-2018**

Category	#	Dates	Intent of CI/PVR	Outcomes/Comments
Civil Rights	1	1997	CI defining marriage as between a man and a woman	Enacted directly by Legislature
	1	1998	PVR to repeal protections based on sexual orientation	PVR passed; protections removed
	1	2005	PVR to repeal protections based on sexual orientation	PVR failed; protections retained
	1	2009	PVR of law authorizing same-sex marriage	PVR passed; no same-sex marriage
	1	2012	CI legalizing same-sex marriage	CI passed; same-sex marriage legal
Education	2	2003	CI requiring State to fund 55% of education + competing measure proposed by legislature	CI obtained most votes but < 50%; appeared on 2004 ballot; passed
	1	2008	CI introducing tax credit for college loans	Enacted directly by Legislature
	1	2009	PVR to repeal school district consolidation	PVR passed; no consolidation
	1	2016	CI creating education fund with 3% tax on wealthy	CI passed but Legislature repealed
Elections	1	1996	CI on mandatory term limit declarations by candidates	CI passed but declaration repealed as unconstitutional
	1	1996	CI on clean elections funding	CI passed; partial repeal in 2011
	1	2011	PVR to repeal voter registration limitations	PVR passed; limitations repealed
	1	2015	CI to address 2011 partial repeal of clean elections	CI passed; new rules established
	1	2016	CI proposing ranked-choice voting (RCV)	CI passed; contested in courts and legislature delays implementation
	1	2018	PVR to repeal RCV implementation delay	PVR passed
Environment	2	1996	CI to reduce clearcutting of forests + competing measure to improve forest management	Competing measure obtained most votes but <50% so it appeared on 1997 ballot; it failed
	1	2009	CI to lower excise tax for fuel-efficient cars	CI failed
Gambling	9	2000-2017	CI proposing gambling at casinos and racing tracks	2 of 9 passed
Hunting	2	2004 & 2014	CI to ban certain bear hunting practices	Both CIs failed; no change in bear hunting rules
Social	1	1999	CI on medical marijuana legalization	CI passed; not effectively implemented
	1	1999	CI to increase abortion restrictions	CI failed
	1	2000	CI to allow assisted suicide	CI failed
	1	2009	CI on medical marijuana dispensaries and ID cards	CI passed; 8 clinics operating by May 2010
	1	2016	CI to increase minimum wage	CI passed; amended by Legislature
	1	2016	CI to impose gun sale background checks	CI failed
	1	2016	CI to expand Medicaid	CI passed; implemented in 2019
	1	2016	CI on recreational marijuana legalization	CI passed; still working on "rules"
	1	2018	CI to fund Home Health Care Initiative	CI failed
Taxes	1	2000	PVR of taxes on snacks	Legislatively enacted
	1	2004	CI to limit property tax	CI failed
	1	2006	CI to limit spending and require voter approval to increase taxes	CI failed
	1	2008	PVR to repeal beverage tax to fund Dirigo Health	PVR passed
	1	2009	CI to limit increases in state spending to population growth rate	CI failed
	1	2010	PVR of changes in income & sales tax rules	PVR passed

### C. What are the CI/PVR Pass/Fail Margins?

Some legislators have expressed concern that many controversial CIs/PVRs pass with very small margins and use this as a justification for amending the legislation shortly after enactment.<sup>2</sup> Slightly more than half the CIs/PVRs since 1996 have passed or failed by comfortable margins of 55% or more, leaving about 45% of CIs/PVRs passing or failing by relatively close margins (50-54%). Concern about the low margins for CI/PVR passage have been presented to the current Legislature in the form of [L.D. 1255](#), which seeks to increase the required vote for CI/PVR passage to 60%—a level that would not have permitted most of the citizen-initiated legislation during the past 22 years to pass. By contrast, Maine’s election laws require only a plurality for electing the Governor and state legislators; a situation that has allowed individuals with as little as 35% of voter approval to fill these positions.<sup>3</sup> In addition, bond issues and constitutional amendments that appear on the ballot require only a majority vote.

An analysis of pass/fail margins by issue area shows more agreement among voters on environment, gambling, and taxes; average margins across all CIs/PVRs in each category were 66%, 60%, and 60%, respectively. Civil rights CIs/PVRs demonstrated the smallest average margins (53%). The overall lowest margins (<51%) were associated with recreational marijuana, the 3% surtax to fund education, and one of the gambling initiatives. The overall highest margins (>70%) were obtained by voters defeating two environmental initiatives (forestry management and reduced excise tax for fuel-efficient vehicles) and one of the gambling initiatives.

### D. How Often Have CIs/PVRs Confronted Implementation Challenges?

Although about half of the CIs/PVRs passed at ballot since 1996 have followed a straightforward path to enactment and implementation, the other half have faced protracted debates on implementation by the Legislature, the governor, the courts, and the CI opponents. Table 3.3 describes some of the more recent CIs that have not been enacted as anticipated by voters.

Study committee interviews revealed concern among citizens and initiative proponents about the frequency of post-enactment delays in implementation, addition of amendments, and outright repeals. These delays mean that when organizing a CI campaign, funding and staff must be budgeted to deal with all the post-vote legal and legislative challenges.

### E. Evolution of CI/PVR Rules since 1908: What Changed and Why?

Since the original constitutional amendment authorizing the CI/PVR process, Maine has enacted 50 statutes and 14 constitutional amendments affecting CI/PVR law.<sup>4</sup> Many of the changes clarified who was responsible for different steps in the process; some aimed at reducing opportunities for fraud in

---

<sup>2</sup> See, for example, comments by State Senator Thibodeau, in [Cousins \(2016\)](#).

<sup>3</sup> Angus King won his first gubernatorial election with 35% of the vote.

<sup>4</sup> See Maine State Legislature, Legislative History Collection, [Maine’s Constitutional Provisions \(2017, May\)](#) for a full list of the constitutional amendments and Maine State Legislature, Legislative History Collection, Maine’s [Statutory Provisions \(2017, Sep\)](#) for the statutes.

**Table 3.3. CIs/PVRs associated with complex outcomes due to post-election legislative action**

Year	Subject of CI/PVR	Outcome
1996	CI: Mandatory declarations of support for term limits required of all candidates	Enacted and declared unconstitutional
1999 & 2009	CI: Medical marijuana	Never effectively implemented in 1999. Following 2009 CI approval, Legislature approved L.D. 1181 and Administrative Rules were established. By May 2010, eight clinics were authorized to operate. Several revisions in the law since then (Maine State Legislature, Law Library (n.d.) Medical...)
2004	CI: 55% of education to be paid by the State	Enacted but never fully implemented
2016	CI: 3% tax surcharge on incomes over \$200,000 to fund K-12 education	Enacted & repealed. Additional education funding added to the budget authorization with about half the amount sought by CI proponents. Debate caused government shutdown ( <a href="#">Miller, 2017</a> )
2016 & 2017	Ranked-choice voting CI & PVR	CI enacted, but advisory court opinion found some parts in conflict with Maine Constitution; subsequent legislation delayed implementation. PVR of the delaying legislation in 2017 forced enactment of all parts of legislation not in conflict with the Constitution. Actual implementation of ranked-choice voting (RCV) for newly reinstated presidential primaries ( <a href="#">L.D. 1083</a> ) delayed by Gov Mills due to concern about funding, but RCV will be effective for 2020 presidential elections (Thistle, 2019, Sep).
2016	CI: Recreational marijuana	The portion of the law that allows persons over 21 years to grow six mature plants and possess 2.5 ounces became effective on January 30, 2017. A 17-member special legislative committee was formed to address the complex issues surrounding full implementation of the law. Current estimates are that rules may be finalized by early 2020 (Maine State Legislature, Law Library (n.d.) Recreational...)
2017	CI: Medicaid expansion	Enacted but never implemented by Gov LePage on budgetary grounds. Implemented in 2019 by Gov Mills. ( <a href="#">Culp-Ressler, 2018</a> , and <a href="#">Portland Press Herald, 2019</a> )

Source: Compiled by the Study Committee from various legislative history sources and news articles.

signature collection; others tried to limit the number of CIs getting to the ballot by making the process more difficult. In some cases, reforms were supported by both political parties and in others partisanship was apparent.<sup>5</sup> Appendix 3.1 describes the subject matter addressed by the constitutional and legislative reforms from 1931 to 2017.

<sup>5</sup> See, for example, [Tipping \(2016\)](#) describing nonpartisan efforts to prevent CI reforms in the early 2000s when Gov King was trying to make CIs much tougher to get on the ballot following a series of CIs to ban clearcutting of forest lands.



A sampling of proposed changes during the recent past include:

- a move to more geographically representative signature requirements for petitions,
- increased restrictions on notary publics who certify signature collectors' affidavits,
- use of simpler and more accessible language for writing ballot questions,
- mandatory legislative hearings for each CI,
- restraints on the ability of the Legislature to change CI after passage by popular vote.

The constant stream of statutes and constitutional amendments since 1908 suggests that not everyone is satisfied with the process, despite the relatively balanced use of the CI/PVR process described in Sections 3/A-C, which indicated that citizen-initiated legislation and referenda have:

- addressed a wide range of issues,
- addressed a relatively balanced mix of conservative and liberal issues,
- not been “owned” by either of the two major political parties,
- offered citizens an avenue to bring issues they consider important to the Legislature,
- not set out on a path of uncontrollable growth that threatens legislative authority,
- provided an opportunity to address difficult/sensitive issues in an iterative manner that combines both legislative and citizen input over time.

Views are mixed on the need for reform. The conservative columnist Jim Fossel argues that “lawmakers should trust the CI process.”

The direct democracy we enjoy in Maine exists as another part of the checks and balances in our democratic system, and limiting access to it reduces those checks and balances. Indeed, making it harder to get measures to the ballot would not only make our state less democratic, it's entirely unnecessary to address the legitimate concerns raised about the system...

Rather than plotting ways to hamper citizen initiatives and undermine our democracy in the process, politicians in Augusta should trust the people of Maine. We may not always get it right – but then again, neither do the politicians. (Fossel, 2019)

A different perspective is offered by the [Maine Heritage Policy Center \(MHPC\)](#), which published a report in 2018 (Posik & Sigaud, 2018) calling for multiple reforms such as stricter signature requirements for petitions, higher vote thresholds for passing a CI/PVR, and making some subjects such as tax policy off-limits for CIs/PVRs.<sup>6</sup>

The recent 129th Legislature considered a variety of bills that would change parts of the CI/PVR process—most adding new requirements for getting an initiative on the ballot. Appendix 3.2 lists three bills that passed the Legislature and eight that did not. Each bill is listed by L.D. number, with links to the Legislature's L.D. database for more details. The long state history of reforms in CI/PVR rules and these recent bills underscore the need for LWVME to come to consensus on CI/PVR policy positions.

---

<sup>6</sup> See, for example, [Crepeau \(2019\)](#) and [Posik \(2019\)](#) for MHPC press releases that reflect positions offered in testimony before the legislature for some of these reforms.

## 4. The CI Process in Maine: Frequently Asked Questions

Given the complexity of the CI process and the danger of getting so far into the weeds that our members miss the key points, we use a Frequently Asked Question (FAQ) approach to cover the highlights. Most questions are answered with bullets. For a few sections that figure prominently in the consensus question discussion, we go beyond simple bullets, providing more detailed background on the topics. Many of the steps in the CI process are the same as those for PVR; however, this section of the report focuses on the CI process and is followed by a short discussion of similarities and differences between the CI and PVR processes (see Section 5). Both the CI and the PVR processes are managed by the Maine Secretary of State's Office, with the [Bureau of Corporations, Elections and Commissions](#), Division of Elections handling many of the details.

### A. Getting Started

#### **Who may and may not file a citizen initiative application?**

- Any registered Maine voter may file an application for a citizen initiative.
- Organizations, including petition organizations that supervise or manage the circulation of petitions, may not file.

#### **What does the application require?**

- Names, contact information, and signatures of the applicant/proponent plus 5 supporters, all with verified Maine voter status.
- There is no fee for filing an application.
- A full draft of the proposed legislation and a brief summary.

### B. The Legislation Drafting Process

#### **What legislation drafting assistance does the State offer a Maine CI applicant?**

Drafting the proposed legislation for a CI can be challenging. Proposed drafts are subject to multiple reviews; but applicants receive little substantive guidance from government or legislative services, particularly on legal or constitutional issues raised by the CI.

Review by the SoS includes referring the proposed legislation to the Office of the Revisor of Statutes (ORS), where it is reviewed primarily for formatting, grammar, and alignment with the correct sections of existing statutes.<sup>1</sup> The ORS is not concerned with the specific content or the possible intent/consequences of a proposed law. If necessary, ORS edits or redrafts the legislation and then sends its advisory redraft to the SoS, who communicates with the applicant. CI applicants, unlike legislators drafting legislation, do not have direct access to ORS or to staff of the legislative services that guide legislators in the drafting of their legislation.<sup>2</sup> CI applicants are free to hire their own legal

---

<sup>1</sup> Title 21-A, Chapter 11, Section 901(3-A) states "The Secretary of State may request assistance from the Revisor of Statutes in reviewing the proposed law."

<sup>2</sup> The [Maine Legislators' Handbook](#) for the 129<sup>th</sup> Legislature (Maine State Legislature, Office of Policy and Legal Analysis, 2018, p. 3) notes: "...in most cases, the legislator turns to a legislative staff office for bill drafting

consultants or solicit the help of organizations—often partisan in nature—that offer guidance (see, for example, the progressive leaning [Ballot Initiative Strategy Center](#), which introduced training courses for “ballot question leaders” in 2013). The review and revision process is iterative until the applicant approves the language for the proposed legislation. All government suggestions and recommendations regarding the drafting of proposed legislation are advisory only; applicants retain final authority over the language of their proposed legislation, regardless of how good or bad the applicant’s preferred version is.

Once the draft legislation is accepted by the applicant, the SoS consults the Office of Fiscal and Program Review (OFPR), which has 15 days to prepare a fiscal impact statement that becomes part of the petition. The fiscal impact statement “...must summarize the aggregate impact that the... [citizens’ initiative]... will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government (Maine State Statutes, Title 1, c.11, subchapter 2, para 353).

One barrier to legal review of draft legislation is Article VI, Section 3 of the Maine State Constitution, which instructs the courts to respond to requests from the governor or members of the legislature for advisory opinions only on “important questions of law” and “solemn occasions.” Maine courts have offered advisory opinions related to CIs, both before and after enactment, but the number of cases is limited (see [Maine Government, State of Maine Judicial Branch, n.d.](#)). There is no provision for a citizen to request advisory opinions.

Although some legislative efforts to provide greater pre-petition review in Maine have been proposed during the recent past, none has gained enough support from the legislature to become law. If the legislation is not carefully crafted, there is a risk of legal and/or constitutional challenges both before and after the initiative goes to ballot. The Home Health Care Initiative in 2018 is a recent case that generated much confusion and discussion ([Miller, 2018](#), and [Anderson, 2018](#)). Poor drafting of legislation can also trigger legislative amendments and repeals of CI shortly after they have been enacted, raising additional challenges for proponents (see Sections 3D and 4E).

### **What legislative drafting assistance do other states offer to applicants?**

Maine’s CI drafting assistance is similar to those in several other states. No state provides pre-application assistance with drafting proposed legislation or access to the kind of drafting assistance provided to legislators. However, a few states provide for some direct contact between initiative proponents and drafting resources before the petitions are issued (see Appendix 4.1).

### **What changes in drafting assistance have been proposed?**

Although legislation drafting assistance is limited in Maine and elsewhere, many studies have identified the lack of drafting assistance as a major weakness in the CI process across the U.S. Solutions discussed in these studies and proposed in several states, but rarely adopted, include:

---

assistance. All legislation, regardless of where it is initially drafted, is processed and prepared for introduction by nonpartisan legislative staff in accordance with standards established by the Revisor of Statutes;” the Revisor’s Office, Office of Policy and Legal Analysis, and Office of Fiscal and Program Review staff provides research and drafting assistance and prepares the bill in proper technical form.”

- drafting assistance offered by the Attorney General’s Office (Cronin, 1989, p. 234);
- advisory opinions by the courts or a panel of volunteer pro-bono attorneys (Cronin, 1989, p. 235);
- required state legislative hearings (Cronin, 1989, p. 237);
- use of “advisory” or “general policy” initiatives where the proponents present a rough idea of their desired legislation to voters; if voters support the general ideas, the legislature then drafts the legislation (Cronin, 1989, pp. 240-241; NCSL, 2002, pp. 6-7);
- some form of judicial/constitutional review prior to petition finalization (Broder, 2000, citing Fred Kimball, “dean of CA petition signature collectors”);
- public hearings after a specified percent of signatures have been collected by...<sup>3</sup>
  - the legislature (NCSL, 2002, p. 12);
  - a state agency such as California’s Fair Political Practices Commission (Broder, 2000, p. 211, citing California Commission on Campaign Financing 1992 report on the initiative process);
- public hearings by the legislature within 10 days of certification, with proponents permitted to change legislation after hearings (Broder, 2000, p. 211);
- a 45-day cooling off period during which legislature and proponents could work on modifying the proposal to produce joint legislation (Broder, 2000, p. 211);
- imposing and/or tightening the single-subject rule to keep CIs more focused and easier to understand (Broder, 2000, p. 213, citing Thomas Hiltachk, a CA initiative lawyer, and NCSL, 2002, p. 15);
- allowing some editing between certification and placement on the ballot (Broder, 2000, p. 213, citing Hiltachk).

### **Are there subject rules that limit what can be covered by a CI?**

Maine has no rules that limit the subject matter of the proposed legislation by making some topics off-limits (e.g., taxes or appropriations), by not permitting the same topic to be repeated during a prescribed time period, or by restricting proposed legislation to a single subject so that it is easy to draft the legislation and easy for voters to understand. Although Maine has no current restrictions, the issue has been in the news because of proposals to create such restrictions<sup>4</sup> and a report by the MHPC that recommended subject restriction reforms (Posik & Sigaud, 2018, p. 28). Given the recent interest in this topic, we review the three major types of subject restrictions below and how other states have dealt with them. When these subject restrictions are approved by a State, violation of the restriction in the drafted legislation can lead to recommendations for modification from the reviewing authorities, or complete rejection of the application.

A **single-subject rule** requires that legislation be restricted to one issue or subject. Use of the rule varies by state and by type of legislation. Although Maine does not have a single-subject restriction for drafting the legislation, it does require that ballot questions for CI are written with “...a separate question for each issue.” Guidelines offered for determining if multiple questions are needed include cases where:

- (1) a voter would reasonably have different opinions on the different issues;

---

<sup>3</sup> See Section 6B for a description of public hearings held in Utah before the petition is circulated.

<sup>4</sup> See [L.D. 252](#).

- (2) having more than one question would help voters to better understand the subject matter;
- (3) the questions are severable and can be enacted or rejected separately without negating the intent of the petitioners (Maine State Statutes, [Title 21A, Section 906, paragraph 6](#)).

These Maine rules for preparing ballot questions aim to ensure clear presentation of the question to voters without restricting CI proponents to a strict single-subject rule. The Study Committee did not find any recent examples of separate questions for different issues in a single CI.

Forty-one states have some form of single-subject rule. Some states impose the rule on both legislatively and citizen-initiated bills, others on one or the other type of bill, and a few states (like Maine) on neither type of bill. Of the 26 states that have a process for citizen-initiated legislative actions, 16 have either the single-subject rule or separate-vote requirement provisions.

Opinions differ about the need for single-subject rules. The NCSL initiative and referendum report recommended the use of a single-subject rule “...to enhance clarity and transparency in the initiative process” (NCSL, 2002, p. x). A 2006 study of the single-subject rule for legislation initiated by legislators concluded that while well-intentioned, “the single-subject rule remains a source of uncertainty and inconsistency for legislators and the legal profession. The root of the problem lies in the inability to define the term ‘subject’ using legal doctrine” (Gilbert, 2006, p. 803). Another study noted that the rule gives courts more discretionary power to strike down passed initiatives and creates potential for a judge’s political biases to influence how a single subject is defined ([Matsusaka & Hasen, 2010](#)).

Because Maine asks applicants to provide information about funding sources for proposed legislation, there is some question about whether a CI proposing a new program plus a new tax to cover the program (e.g., the 2018 Home Health Care Initiative) would be considered to be one or two questions, should Maine adopt a single-subject rule. However, specifying the proposed funding source in addition to the proposed legislation does not seem to violate the single-subject rule in states that have such a rule. For example, California’s single-subject rule did not invalidate the 2016 Proposition 64 on Marijuana Legalization, which included a specific state excise tax on the retail sale of marijuana.

**Repeat subject restrictions** are present in some states; these restrictions prevent citizens from initiating CIs with the same, or substantially similar, subject matter within a defined period of time. Citizens in Massachusetts, Mississippi, and Utah, for example, may not reintroduce the same measure over a two-year period; the delay in Nebraska is three years and in Wyoming it is five years. Oklahoma, however, increases the signature threshold, rather than imposing a time period, if the same measure has been initiated within the last three years (Posik & Sigaud, 2018, p. 6 and [Ballotpedia Subject Restrictions/ballot measures, n.d.](#)). The NCSL study (2002, p. x) was in favor of a pause before resubmission but did not specify a particular period of time.

**Topic restrictions** are imposed in many states. For example, initiatives in Alaska and Wyoming may not dedicate revenues, make or repeal appropriations, or affect the judiciary. Massachusetts prohibits measures related to religion, the judiciary, specific appropriations, anything that would restrict rights found in the MA Constitution’s Declaration of Rights, and anything relating to the 18<sup>th</sup> Amendment to the U.S. Constitution dealing with prohibition of alcohol. Mississippi does not allow CI to repeal or modify the state’s Bill of Rights, public employees’ retirement system, right-to-work provision, or the initiative process itself (Posik & Sigaud, 2018, p. 6 and [Ballotpedia Subject Restrictions/ballot measures, n.d.](#)).

Restrictions on money matters (appropriations, taxes, and fees) tend to be the most common and the most contentious. A study of the initiative process in Oregon noted that:

Mandating changes in revenue and expenditures through the initiative system disrupts the state's budgeting process, confounds the legislature's constitutional requirement to balance the state's budget and negatively affects state and local bond ratings (City Club of Portland, 2008, p. iv).

On the other hand, there is evidence that CIs proposing tax reforms or limits on government spending have stimulated discussion and public education campaigns that have been beneficial to the public's understanding of tax and appropriation issues. This was particularly true during the early 2000s when there were Taxpayer Bill of Rights (TABOR) reform proposals introduced in many states, including Maine (see [Chapman, 2006](#) for details).

### C. Signature Gathering, Certification and Validation Process

#### **What happens after the petition contents are accepted by the proponent?**

The SoS delivers the fully designed or "approved" petition form to the proponent, who must print as many identical copies as needed. The date of delivery to the proponent is the "date of issuance," which starts the 18-month period of petition circulation.

The proponent gathers signatures; petition circulators may be volunteers or paid. A paid petition organization must be registered with the SoS. Since no signature can be more than one year old when submitted to the SoS, the actual signature-collection period is limited to one year.

The number of verified signatures must be equal to or greater than 10% of votes cast for governor during last gubernatorial election (63,067 signatures in 2019).<sup>5</sup> There is no geographic distribution requirement in Maine.

If the total amount of contributions received or expenditures made to initiate or influence the outcome of a CI ballot question exceeds \$1500 for Political Action Committees or \$5,000 for other individuals or organizations, campaign finance reports must be filed with the Maine Commission on Government Ethics and Election Practices (referred to as "Ethics Commission" in the remainder of the report). The rule applies to both supporters and opponents.

#### **How are the signature requirements determined?**

Although the signature requirement rules in the Maine Constitution have been changed only once,<sup>6</sup> there have been recent efforts to add a geographic distribution requirement, defined as a statutory or constitutional mandate requiring that petitions for a CI must be signed by voters from different political subdivisions (e. g., county, Congressional District). In Maine, any change in the signature requirements for CI petitions requires a constitutional amendment: the resolution must pass by a two-thirds margin in both the House and the Senate and then goes to referendum where passage is by majority vote.

---

<sup>5</sup> This requirement is one of the highest across states with CI/PVR processes (see [Tipping, 2017](#) for comparisons).

<sup>6</sup> Maine's initial 1908 CI/PVR Constitutional Amendment called for 10,000 signatures to get a PVR on the ballot and 12,000 for a CI. Constitutional Amendments in 1947 for PVR and in 1951 for CI increased the requirements to "...not less than 10% of the total vote for Governor cast in the last previous gubernatorial election". [Maine State Constitution](#), Article IV, Part Third, Sections 17 & 18.

A key challenge in setting petition signature requirements is to find an acceptable balance between the desire to have signatures representative of the voting population and the desire to keep the CI/PVR petition process accessible enough that citizens (rather than only well-funded organizations) can successfully launch campaigns. Higher signature requirements tend to mean greater costs for petitioners.

Maine had two geographic requirement bills before the recent 129th Legislature with hearings conducted by the Committee on Veterans and Legal Affairs. Neither passed, but interest in the proposals was high so similar proposals are likely to appear in the future.

[L.D. 255](#) Resolution on constitutional amendment to require that signatures on direct initiatives<sup>7</sup> come from each congressional district. Testimony at committee hearings was mostly favorable. Because Maine is rapidly losing population and could be reduced to a single congressional district following the 2020 census, some believe the effort involved in getting this constitutional amendment through at this time is not justified.<sup>8</sup>

[L.D. 374](#) Resolution on constitutional amendment to require that signatures on a direct initiative of legislation come from each state senatorial district. The SoS testimony mentioned possible challenges under the First Amendment, which triggers an analysis of the degree of burden imposed. The SoS also mentioned the difficulty of calculating 10% of gubernatorial voters for each senatorial district given current vote-reporting methods (Packard, 2019, Mar).

In the [26 states](#) with some type of initiative process (including constitutional initiatives), 13 have laws imposing distribution requirements on CI statutes and/or PVR while 12 do not.<sup>9</sup>

The NCSL (2002), which recommended some distributional requirements in their 2002 report, noted that efforts to increase such requirements have become common in Alaska, Montana, Wyoming, Colorado, and Oregon. Among these, the first three were successful and the other two were not (NCSL 2012). In addition, there are several court cases on the issue summarized by [Ballotpedia \(n.d.\) Distribution Requirement](#),<sup>10</sup> most of which declared county-based rules unconstitutional due to unequal populations across counties.

### **How are signatures and petitions certified and validated?**

Petition circulators must sign an oath before a notary that they personally witnessed each signature and that, to the best of the circulator's knowledge and belief, each signature is the signature of the person whose name it purports to be. Local election officials must certify that each signature is that of a currently registered voter. Locally-certified petitions are delivered in bulk to the SoS who conducts additional checks and validates the petition if the required number of signatures has been collected and no other problems are identified. The petition for a citizen initiative must be submitted to the SoS by deadlines established by the Maine Constitution.<sup>11</sup>

---

<sup>7</sup> This is the term used in Maine's constitution and statutes for "Citizen Initiative".

<sup>8</sup> This was mentioned by participants in the [Bangor Daily Brews](#) (2019) discussion of referendum reform in Maine.

<sup>9</sup> The on-line map at [https://ballotpedia.org/Distribution\\_requirement](https://ballotpedia.org/Distribution_requirement) provides details for each state.

<sup>10</sup> See last section entitled "Lawsuits" in this [Ballotpedia link](#).

<sup>11</sup> These deadlines are as follows: (a) For the 1<sup>st</sup> regular session: By 5:00 p.m. on or before the 50th day after the convening of the Legislature. The first regular session convenes on the first Wednesday of December following the

If the SoS determines that the number of signatures is not adequate, proponents may appeal.

#### D. Steps Following Petition Validation

##### **What happens after SoS validation?**

The SoS sends the text of the proposed legislation to the Legislature. Effective May 2019, the Legislature must hold public hearings on a CI unless two-thirds of both houses agree not to do so. Before this change, hearings were optional and only one was held from 2012 to 2018 on 11 initiatives (see Section 7B).

The Legislature may enact the proposed law directly, with no changes (this has occurred 6 times since 1908). In that case, the citizen-initiated bill is not put on the ballot.

The proposed bill goes on the ballot if (a) the Legislature passes it without changes but the law is vetoed by the Governor; (b) the Legislature offers a competing measure; or (c) the Legislature does not consider the proposed law. The SoS publishes notice of a ballot question, provides a 30-day public comment period about the wording of the question, and maintains a record of public comments, revising the draft ballot question if comments suggest revisions are needed (see Section 7A for details). The initiative appears on the ballot for the next statewide or general election.

The SoS provides detailed voter information about the initiative in the *Maine Citizen's Guide to the Referendum Election* (See Sections 7C and 8A for details).

#### E. After the Vote: Potential Challenges to Enactment and Implementation

##### **What happens if a citizens' initiative does not get a majority of the votes?**

The CI does not pass unless it gets a majority of the votes. There is, however, no waiting period to try again to get the proposed law passed by the Legislature or via a new ballot question. Proponents must begin the process from the beginning by introducing a new CI application (see Section 4B on repeat subject restrictions).

##### **What happens if a citizen's initiative gets 50+% of the vote?**

Most ballot questions that pass are enacted approximately 40 days after the election. However, measures which entail expenditures in excess of available and unappropriated state funds can be delayed until the next regular session of the Legislature. The Governor cannot veto the law, but the Legislature may change the law immediately after enactment or kill it by not funding its implementation.

The Maine Legislature has frequently used its constitutional right to repeal or amend voter-approved CIs. Six recent examples were listed in Section 3D, Table 3.3. For several of these examples, inadequate budget appropriation was cited as the reason. The Maine State Constitution (Article IV, Part Third, Section 19) provides that, if there are insufficient state funds available for a measure and the initiated measure does not specify a sufficient funding source, the measure's effective date is delayed to allow

---

General Election. (b) For the 2<sup>nd</sup> Regular Session: By 5:00 p.m. on or before the 25th day after the convening of the Legislature. The second regular session convenes on the first Wednesday after the first Tuesday in January in the even-numbered year following the General Election.



(but not require) the Legislature to appropriate funds. Such measures are officially enacted 45 days after the start of the next legislative session, but enactment has not always been accompanied by implementation.

Legislative “meddling” with voter-approved CI has been discussed recently in the Maine and national media.<sup>12</sup> One example is the failure to implement the voter-approved Medicare expansion initiative, approved by 59% of voters, up through the end of the LePage administration where funding was cited as an issue (Culp-Ressler, 2018). Another example is the amendment of the 2016 voter-approved minimum wage legislation, which was subject to protracted post-election give-and-take on the treatment of tips. The original legislation was ultimately amended following open public hearings, with public testimony on the pros and cons of amendment (Thistle, 2017, Jun). In some cases, implementation of a CI is held hostage by some members of the Legislature who use it as leverage in efforts to get other legislation through (see *Portland Press Herald*, 2018); in other cases, partisan interests from both sides of the aisle have unnecessarily resulted in repeals, amendments, or delayed implementation, as described below:

...clearly neither party has any problem ignoring, revising or completely rewriting citizen-initiated laws when it’s politically convenient for them. Let’s stop pretending otherwise. Instead, let’s demand that when the Legislature sees fit to meddle with citizen initiatives, it does so the right way (Fossel, 2017).

Examples of the “right way” include conducting public hearings and offering competing measures before the CI goes to ballot and sending any voter-approved CI that has been significantly revised by the Legislature back to the people for a referendum vote before enactment.

According to Ballotpedia (n.d. Legislative Alteration), other states have a variety of approaches to the issue of legislative alteration of voter-approved measures:

- Eleven of the 21 states with citizen-initiated legislative power have no restrictions on how soon or with what majority state legislators may repeal or amend initiated statutes.
- Four states (NV, ND, WA, WY) have restrictions on how soon state legislators may repeal or amend initiative statutes—ranging from two to seven years.
- Six states (AZ, AK, MI, NE, ND, WA) have restrictions on how large a supermajority vote is required in the legislature to repeal or amend initiative statutes.
- Two states (ND, WA) have restrictions *both* on how soon *and* with what majority legislators can repeal or amend initiative statutes.
- California and Arizona are the only states with voter approval requirements for changes to or repeal of citizen-initiated statutes.

While there is discontent in Maine and elsewhere with Legislative repeal and amendment of voter-approved CIs, finding a balanced rule that respects the will of the voters while allowing for some modification when unexpected consequences present themselves is a challenge. One argument for retaining legislative rights to amend or repeal is the poor quality of the draft legislation (see Section 4B);

---

<sup>12</sup> See, for example, [Cousins](#) (2016), [Mistler](#) (2017), [Povich](#) (2017), [Culp-Ressler](#) (2018), [Thistle](#) (2017, Jun) and [Portland Press Herald](#) (2018) for articles on the Maine Legislature’s handling of some CIs recently passed by voters. [Berman](#) (2019) in *Mother Jones*, [Williams](#) (2018) in the *New York Times*, and [Wilson](#) (2019) in *The Hill* address the issue from a national perspective.

another is the inadequate treatment in the proposed legislation of funding mechanisms (see Section 3D). The frequency with which these arguments are offered in Maine and elsewhere suggests that the two issues (pre-petition drafting assistance for applicants and post-election amendments or repeals by state legislatures) are best considered in tandem. The dilemma is that a situation with no restrictions on a legislature gives the appearance that it can ignore the popular will yet the imposition of rigid restrictions such as lengthy “hands-off” periods can mean living with the negative consequences of poorly-written bills and/or lengthy court cases.

A recent attempt to address legislative amendment/repeal of CIs would have allowed amendment only “... if the change clarifies or further advances the original intent of the direct initiative...” (see [L.D. 1565](#) 129<sup>th</sup> Legislature). Testimony from the SoS office, which was neither for nor against the bill, noted potential challenges in implementing the law as written. The SoS testimony also suggested that...

If the intent ... is to provide a hands-off period to prevent the Legislature from repealing or amending an initiative, it may be cleaner to provide for a time period during which the Legislature is not allowed to amend or repeal initiated measures. Such a restriction would be clear-cut and self-implementing (Packard, 2019, Apr 24).

## 5. Highlights of the People's Veto Referendum Process

There are many similarities between the CI and PVR processes. Thus, to avoid repetition, we focus in this chapter on the similarities and differences between the two rather than the full range of FAQs discussed in the last chapter. A key point to keep in mind, however, is that, unlike CI applications which require legislation to be drafted, PVR applications require only a copy of the recently-passed legislation that one wants to repeal.

### A. Similarities between CI and PVR processes

Rules for initiating a PVR that are the same as those for initiating a CI include:

**Filing rules:** Applications must be filed with the Secretary of State (SoS) by a proponent plus five supporters, all registered Maine voters; organizations, including petition organizations, may not file PVR applications. There are no application fees.

**Campaign finance reporting:** must be undertaken once contributions or expenditures to initiate or influence the outcome of a PVR reach \$1500 for PACs and \$5000 for individuals and other organizations (applies to supporters and opponents).

**Drafting the petition and ballot question:** The SoS works with proponents to draft the petition and the ballot question, but the task is much easier than for CI because there is no need to draft new legislation.

**Petition circulation rules:** Rules for PVR petition circulation are identical to those for CI petitions (circulators may be paid and must sign an oath before a notary public confirming that they witnessed all signatures on their petition).

**Signature certification:** Local election officials verify that those having signed the are currently registered voters.

**Petition validation:** Petitions certified by local election officials are submitted to the SoS for validation, which includes verifying that the number of requisite signatures was reached and other rules followed.

**After validation by the SoS:** Validated petitions can become ballot questions to be voted on at the next general or statewide election.

### B. Differences between CI and PVR processes

Despite the similarities, there are a few differences in timing of applications, information required in the application, and how and when the PVR affects the targeted legislation.

**Timing of veto application:** A PVR petition application must be filed with the SoS within 10 business days after adjournment of the legislative session during which the challenged law was passed. Recall that a CI must be introduced shortly after the beginning of a legislative session.

**Content of the application:** It must include a copy of the challenged law or reference to the law: a PVR can challenge all or part of a law. If the challenge is partial, the application must clearly specify which parts are challenged.

**Approval of the application and drafting of the petition:** If the SoS approves the application, the SoS drafts the ballot question immediately with no period for public review, the ballot question becomes part of the approved petition form provided to the proponent, and the petition must include the text of the challenged law and proposed changes. For CIs, the ballot question is not written until after the petition signatures are validated by the SoS and it is clear what action the Legislature is going to take. At that point, there is a 30-day period for public review and comment on the draft ballot question.

**Petition submission to SoS for validation:** Petition forms must be submitted in bulk to the SoS by 5:00 p.m. on the 90th day after adjournment of the legislative session during which the challenged law was passed. This is a much shorter period of time for collecting signatures than available for CI petitions.

**After the validation decision by the SoS:** A validated petition suspends the challenged law until it is decided as a ballot question at the next general or statewide election. Unlike the CI, the PVR is not referred to the Legislature for consideration and there are no new public hearings.

**Post-election:** A PVR that passes at ballot immediately repeals the challenged law. However, the Legislature may pass the same or a similar law again at any time—there is no waiting period for when the defeated law can be re-introduced in the Legislature.

## 6. Resources and Information Available during the Petition Process

### A. Information for Applicants/Proponents

The [Secretary of State \(SoS\) website](#) provides an application packet with a brief description of the steps in the CI/PVR process. It also links to the following sources of information and forms:

1. [Excerpts from The Constitution of the State of Maine](#)
2. [Title 21-A, Chapter 11: "Ballot Questions"](#)
3. [Initiative Legislation Application Form](#) (in Adobe Acrobat (.PDF) format)

The Study Committee's review of these materials found that:

- The SoS description of steps in the process is short and lacking in detail.
- Language used in the Constitution and relevant Maine statutes is technical and difficult to understand.
- Finding help on particular issues by searching the legislative documents is not easy.
- There is no mention of related campaign finance registration and reporting requirements.
- Study Committee interviews with CI/PVR applicants suggested that some were not aware of the need to register and report campaign finances to the Ethics Commission until they had passed the reporting deadlines.

All other states that permit citizen initiatives offer basic "how-to" information online. Some provide comprehensive, easy-to-understand information. For example, the Nebraska Secretary of State's office provides a 13-page [How to Use the Initiative and Referendum Process in Nebraska](#) pamphlet that addresses everything from the petition basics to what happens after the election (Nebraska Secretary of State, 2015). The Massachusetts Secretary of the Commonwealth's office provides a 20-page [State Ballot Question Petitions](#) document that specifies how to initiate petitions for laws, constitutional amendments, referenda, and public policy questions (Massachusetts Secretary of the Commonwealth, 2019).

In sum, information available to CI/PVR applicants could be improved through the creation of a handbook for applicants and better coordination of information from the SoS and Ethics Commission websites and other resources. Because easily-accessed information about the application process is such an important part of ensuring that citizens are able to effectively use CIs/PVRs, the accompanying Consensus Question Packet covers the issue in the first consensus question, which addresses underlying principles for evaluating the CI/PVR process.

### B. Information for the General Public

Information on Petitions. Maine law requires that petitions include a summary of the proposed law, the full text of the law, and a fiscal impact statement to inform voters about the anticipated impact of the petition they are being asked to sign. Petitions can vary in length from two to 12 or more pages. The 2018 Home Care petition included an 84-word summary, a 606-word fiscal impact statement and four 11" X 17" pages of proposed legislation. This raises questions about the efficacy of requiring that the full

text be an integral part of the petition. If few signers are likely to read the full text before signing, is there a better way to ensure that signers have access to and understand the full text of the proposed legislation?

Absence of Pre-Certification Public Hearings. There are no public hearings during Maine’s petition application and signature collection process. The design of the petition and content are determined by the SoS in consultation with the applicant. Once the application is approved, the title, proposed ballot question, text of legislation, applicants’ contact information and dates of petition validity are available on the SoS [website](#). From this point on, the applicant/proponent cannot change the draft legislation. Utah is the only state identified that provides for public hearings during the petition application/drafting process (see textbox).

### **Utah’s Unique Approach to Pre-Petition Public Hearings**

After the fiscal review has been complete and prior to collecting signatures, sponsors must host seven meetings around the state to gather feedback. Rules regarding the geographic distribution of these hearings are set forth by state statute and sponsors are required to make a record (audio, video or detailed minutes) for publication by the lieutenant governor. After the final hearing, sponsors have two weeks to submit modifications to the proposed measure. The changes must be germane to the original text of the measure and are also subject to review by the lieutenant governor and the Office of the Legislative Fiscal Analyst. If changes to the proposed initiative alter the estimated fiscal and legal impacts of the initiative, the Office of the Legislative Fiscal Analyst must update the fiscal and legal impact statements previously prepared. See: [Utah Code, Title 20A, Chapter 7, Section 202](#) and [Section 204.1](#)

Source: [https://ballotpedia.org/Laws\\_governing\\_the\\_initiative\\_process\\_in\\_Utah](https://ballotpedia.org/Laws_governing_the_initiative_process_in_Utah)

## 7. Opportunities for Public Input

Some of the most critical information provided to the public by government concerns the content and intent of CI/PVR ballot questions. Those supporting public involvement believe it is important for the public to be able to provide input on how ballot questions are worded and the types of information about each ballot question that are provided to voters by government services. Maine currently offers three opportunities for public input: public review and comment on draft ballot question wording, legislative hearings after petition validation by the SoS, and submission of arguments for or against a CI or PVR for inclusion in the Maine Citizen's Guide. We review the current status of each of these options.

### A. Public Comment on Ballot Question Language

In 2007, Maine law established a 30-day public comment period on the “content and form” of the ballot question language for CIs. This is the exact language that each voter will see on the ballot when voting. In 2018, the SoS received 120 public comments on the controversial Home Care initiative and changed the wording, enlarging the description of how the tax would be applied. In general, this opportunity for public comment has not been used frequently (see Appendix 7.1 for details).

Despite the limited use of the public comment option, there remains some concern about the adequacy of the ballot question wording. Evidence of this concern is found in [L.D. 534](#) passed by the 129<sup>th</sup> legislature. The bill called for ballot wording at the 6<sup>th</sup> grade-level and clearer information on the effect of the legislation if adopted. The bill passed in amended form without a specific grade level but called for the SoS to “...write the question in a clear, concise and direct manner that describes the subject matter of the people's veto or direct initiative<sup>1</sup> as simply as is possible.”<sup>2</sup>

### B. Public Legislative Hearings

After a CI is validated by the SoS as having obtained the required number of signatures and submitted to the Legislature, the Legislature must conduct public hearings according to [L.D. 1209](#) enacted in 2019.<sup>3</sup> Hearings were optional before this. From 1975 to 2011—although optional—the Legislature referred all initiatives to a Committee and public hearings were held. Since 2012, only one (of 11 initiatives) was referred to Committee, so the other 10 had no public hearings. Eight states with citizen initiatives require public hearings.

Proponents of mandatory public hearings believe they will alert the public to the full intent of the CI and bring to light potential problems with implementation. Hearings also offer the Legislature an opportunity to present a competing measure.

Opponents of mandatory public hearings believe they can be used as delaying tactics by those opposed to the proposed legislation, particularly if competing measures are introduced. When a competing measure is introduced, voters have three choices: accept original measure, accept competing measure, or accept neither and stay with the status quo. If neither the original nor competing measure obtains a

---

<sup>1</sup> As noted earlier, “direct initiative” is the term used in Maine statutes for citizens’ initiative.

<sup>2</sup> See Maine State Legislature, Public Laws, [P.L. 2019, c. 414](#).

<sup>3</sup> According to the new legislation, the Maine Legislature can skip hearings if two-thirds of both houses agree.

majority vote (>50%), the final resolution of the issue is postponed to a subsequent election where voters get to vote yes/no on the measure that received the most votes in the initial election.

### C. Submission of Pro/Con Statements for the Citizen's Guide

The Maine Citizen's Guide to the Referendum Election (Citizen's Guide) is the primary source of official, government-provided information for CIs and PVRs that make it to the ballot. It is published by the SoS. Public comments for or against a CI ballot question can be submitted to the SoS for inclusion in the Citizen's Guide by any individual, corporation, PAC, or organization (not limited to those in Maine). There is a five-page guide available from the SoS for those wanting to submit comments (Maine Government, Secretary of State, 2006). Submission requires payment of a \$500 fee. Public comments in the Guide are limited to three pro and three con statements (determined by earliest filing dates if more than three are received) and 300 words each. They are published exactly as presented in the accepted application. A disclaimer is required by law that "The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment." (Maine Government, Secretary of State, 2006, p.4). Neither the Citizen's Guide nor the SoS webpage (Maine Government, Secretary of State, 2018, Oct) announcing the Guide publish information about how the public comments were obtained or mention the payment of fees.

Since 2006, there have been 24 initiatives (see Appendix 7.1 for a summary of public comments included in Citizen's Guide since 2006). No public comments were filed for 10 of them. Only one (Taxpayer Bill of Rights) had three pro and three con public comments. An example of what the pro/con statements might look like is available in the November 2018 Maine Citizen's Guide (p. 18), which included two public comments against and none in favor of the Home Health Care Initiative (Maine Government, Secretary of State, 2018, Nov).

Given the limited use of Maine's current public comment option, the Study Committee reviewed approaches used in other states to present this type of information to voters and developed a consensus question on the topic (CQ 7). Five states that permit citizen initiatives do not publish voter guides.<sup>4</sup> Twelve other states<sup>5</sup> include public comments in their Guides. Word limits range from 150 to unlimited. Four states permit rebuttals.<sup>6</sup> Three states appoint committees to write the pro/con statements<sup>7</sup> and committees in one state can seek public input. Only three states charge a fee to submit public comments: Arizona \$75, Maine \$500, and Oregon \$1200 (waived upon receipt of a petition signed by at least 500 voters).<sup>8</sup>

---

<sup>4</sup> Arizona, Michigan, North Dakota, Ohio, Oklahoma.

<sup>5</sup> Alaska, Arizona, California, Idaho, Massachusetts, Montana, Nebraska, Nevada, Oregon, South Dakota, Utah, and Washington. Ohio accepts public comments, but they are published only in newspapers and not in the voter guide.

<sup>6</sup> California, Idaho, Montana, and Washington.

<sup>7</sup> Montana, Nevada, and Washington; Nevada allows the committee to seek public input.

<sup>8</sup> Oregon fee info from OregonLaws.org (n.d.), paragraph (2).



Methods used for drafting and selecting public comments can influence voters' confidence in the information provided. Three frequently-discussed approaches to drafting pro/con statements for ballot questions in voter guides are described below.

*Government Selected Proponents and Opponents:* Currently in MA, the Secretary of the Commonwealth must include arguments for and against every ballot question, limited to 150 words. The Secretary seeks arguments for and against from the principal proponents and opponents. In determining the principal proponents and opponents of a measure, the Secretary contacts each political committee that is properly organized to influence the outcome of such a measure. If there is more than one proponent or opponent group, the Secretary determines who is best able to present the argument for and against the measure. If no comments are submitted, the Secretary must draft them. All arguments filed with or prepared by the Secretary under this section are open to public inspection (paragraph summarized from LWVMA, 2018, p. 19).

*Government Appointed Committees.* In Washington, for example, state law requires separate “pro” and “con” committees to...

...write and submit arguments advocating the approval or rejection of each statewide ballot issue and rebuttals of those arguments. The Secretary of State, the presiding officer of the Senate, and the presiding officer of the House of Representatives shall appoint the initial two members of each committee. In making these committee appointments [they] ... shall consider legislators, sponsors of initiatives and referenda, and other interested groups known to advocate or oppose the ballot measure. Committees must have the explanatory and fiscal impact statements available before preparing their arguments. The initial two members may select up to four additional members, and the committee shall elect a chairperson. The remaining committee member or members may fill vacancies through appointment.

After the committee submits its initial argument statements to the Secretary of State, the Secretary of State shall transmit the statements to the opposite committee. The opposite committee may then prepare rebuttal arguments. Rebuttals may not interject new points.

The voters' pamphlet may contain only argument statements prepared according to this section. Arguments may contain graphs and charts supported by factual statistical data and pictures or other illustrations. Cartoons or caricatures are not permitted. (Quoted from Washington State, n.d.).

*The Citizens' Initiative Review (CIR).*<sup>9</sup> Healthy Democracy, a nonprofit organization, explains their recommended Citizens' Initiative Review process as one that brings “randomly selected and representative panels of voters together to fairly and thoroughly evaluate ballot measures and give voters information they trust” ([Healthy Democracy, n.d., Citizens Initiative Review](#)). The CIR alternative begins with a panel of citizens chosen through a geographically diverse, random process similar to how jurors are selected. They hold public hearings and deliberate publicly about an initiative's meaning and effect on the state's citizens. The panel then writes a “citizens' statement” for distribution to voters

---

<sup>9</sup> For more information about CIR, see [Healthy Democracy \(n.d.\), What does a healthy democracy look like?](#) for a 4 minute video about the process in Oregon. See also [Gastil, Richards and Knobloch \(2014\)](#) for an academic evaluation study of the 2010 Oregon CIR experience.

which includes a fact-based, researched summary and “pro” and “con” statements. Research shows that the CIR process presents information from the citizen's perspective, instead of from an impersonal point of view, or from the government's perspective (Richards, 2016). Non-governmental CIR pilot projects have been undertaken in Arizona, California, Colorado, Oregon, and Massachusetts.

Oregon's Citizen Initiative Review (CIR) has been officially in place since 2011 when it was enacted into law after several pilots in Portland, OR and in parts of WA. Results have been included in the Oregon voter guide for each year the CIR has convened.

Encouraged by the success of Oregon's CIR process, a Massachusetts State Representative filed legislation to implement the CIR system in Massachusetts. Pilots were conducted in Massachusetts in 2016 and in 2018 (Massachusetts Citizen Review, [n.d.](#), [2016](#), and [2018](#)). To date, the CIR process has not been officially adopted in Massachusetts, which continues to solicit input from the principal proponents and opponents as described above. However there is a bill before the current legislature proposing official adoption of the CIR ([Emanuel, 2018, and personal communication from Marge Easley representing LWVOR and Healthy Democracy](#)).

A topic not well addressed in the literature on CIR reviewed by the Study Committee is the cost of implementing the program and the willingness of state legislatures to dedicate funding for it. To date, Arizona is the only state that has allocated public funds to the effort, using funds from the Clean Elections Commission for a pilot. Other pilots and the first several years of Oregon's officially sanctioned CIR have been funded by various foundations and private donations. Oregon lacked funding to support a CIR in 2018 and 2019. Efforts are underway in MA and OR to obtain state appropriations to support the CIR effort. Cost estimates vary significantly. A League of Women Voters of Washington (LWVWA) study estimated in 2001 that the cost in WA would be from \$700,000 to \$1,400,000 per election (roughly \$0.25 per citizen), depending on the number of initiatives covered (LWVWA, 2001, p. 7). The estimated cost of CIR per ballot question in Oregon is currently \$75,000-80,000 and a request for \$250,000 to fund CIR for the 2020 elections is currently before the Oregon legislature.<sup>10</sup>

Although CIR has received positive reports from organizations conducting external reviews of the process, there are several criticisms that have been mentioned frequently. These include: opposition to publishing any group's judgment using state funding (whether through the CIR process or other means); lack of confidence in the ability to select a “representative” panel; and inability of a CIR panel to include “last-minute” information in their deliberations (LWVWA, 2001).

---

<sup>10</sup> Unless otherwise referenced, details in this paragraph are from email communications in November and December 2019 with Marge Easley, former LWVOR president and board member of Healthy Democracy.

## 8. Types of Voter Information Available at Election Time

### A. Official Government Sources of Voter Information

As noted above, the Maine Citizen's Guide to the Referendum Election is the primary source of official voter information about CIs and PVRs appearing as ballot questions. The first Citizen's Guide was published in 1929. The Guide is now published in English for each election that includes at least one statewide citizen initiative, people's veto, constitutional resolution, and/or bond issue.

In 2005, a Maine Legislative Study Commission was charged with, among other things, investigating how well the public was informed about proposed CIs. Their report concluded that "Voter information regarding citizen initiatives should be more informative, accessible and easy to read." A majority of the Commission favored mailing voter information packets directly to voters' homes, although the cost and "less-than-favorable funding ideas" made such a recommendation impractical "at this time." The report also stated that the public should have greater access to financial information regarding campaigns organized to support or defeat citizens' initiatives and recommended better Internet links between the SoS and the Commission on Governmental Ethics (Commission to Study Alternative Voting Procedures, 2006, Jan, pp. 11-12).

Beginning in 2006 the Guide was expanded to include:

- Exact wording of the ballot question,
- Full text of the legislation, followed by a one paragraph summary,
- Intent and content statement by the Attorney General, including a statement of what a yes/no vote means,
- Fiscal impact statement,
- Public pro/con comments for or against.

Although the 2005 Legislative Study Commission called for better Internet links between the SoS and the Ethics Commission, which regulates campaign financing for CIs/PVRs, there was no suggestion that the Citizen's Guide include campaign finance information. Thus far, no information about campaign finance is found in the Citizen's Guide or in any other easily-accessible government publication available before the elections (see Section 9 of this report for more on campaign finance).

The Citizen's Guide is currently available online or by request and distributed to libraries and municipal offices. To better assess distribution and use, we conducted an informal poll of 261 Maine libraries (with 91 responding) to compare use of the 2018 Citizen's Guide to use of the League's Voter Guide. Although some libraries reported moderate use of the SoS Guide, most responded that it was used either not at all or by only a few patrons. In contrast, libraries reported that the League's Voter Guide, which was available in quantities so library patrons could take a copy home, were very popular and quite a few libraries ran out of copies. These results, though informal, corroborate the findings of the 2005 Legislative Study Commission and suggest that there is still a distribution problem. Although the distribution of the League's voter guide (60,000 copies in 2018) far exceeds that of the Citizen's Guide, the League's information on ballot questions is cursory compared to that in the Citizen's Guide, so it does not seem to be a comparable information source for CI/PVR ballot question issues.

The SoS continues to express concern about the costs of wider distribution. A key factor is the length of the document because of inclusion of the full draft of all proposed legislation, which is required by statute. The 2016 Guide, with five Cis, was 61 pages. The SoS has suggested that if the Citizen's Guide included a link to the SoS website containing the full text of the proposed legislation, the Guide could be shortened by omitting the full text (Packard, 2018, Apr 8). A shorter Guide could facilitate printing by voters and expanded distribution of the Guide by the SoS. Furthermore, if the Guide were disseminated more widely, it could provide an alternative to printing the fiscal impact statement and/or a 250 word summary of legislation on the ballot. Both of these proposed requirements create problems of their own such as more costly ballot preparation and longer/slower voting lines if voters decide to read that information while in the voting booth rather than before going to the polls.

Of the 16 states that publish a guide, five states offer large print versions<sup>1</sup> and six offer audio versions (some with closed captions).<sup>2</sup> Montana provides a braille version. Ten states publish guides in a variety of languages from Spanish to Tagalog. California guides may include art, graphics, and other materials to make the guide easier or more useful for the average voter. While most state guides are available online and distributed to libraries and town offices, 11 states mail guides to every voter (or household).<sup>3</sup> In addition to mailing guides, California also distributes copies to every state legislator, high school, and post-secondary institution.

## B. Non-Governmental Sources of Voter Information.

The NCSL (2002, p. 51) report states: "Scholarly research has shown that most people get their information about election issues from friends, family, special interest groups with which they identify and the media." Some of the options available in Maine are discussed below.

LWVME's "Easy-To-Read" Voter Guide has been published since 2008; it offers general information on voting rules, descriptions of candidates, and proposed ballot questions. Written at a 6<sup>th</sup>-grade reading level, information on CIs/PVRs includes a brief explanation of what the ballot question means and arguments for voting Yes or No. Voters can obtain copies at libraries, businesses and other outlets. In 2018, the guide was available in English, Arabic & Somali. In addition, there was also a Portland edition and an American Sign Language audio-visual copy provided through Disability Rights Maine.

Citizen initiative coverage varies by media type and political bent. A Study Committee poll of Maine daily and weekly newspapers showed that generally, initiatives are covered as news stories although a few smaller newspapers publish a Voter Guide. In addition, most print media (and their online versions) publish a copy of what the local ballot will look like, while editorials offer opinions on whether an initiative should pass. Some newspapers' online versions provide a link to the SoS Citizen's Guide.

As use of the media increases, so do the costs of running a CI/PVR campaign. Consequently, "...some people argue that the use of media sources to educate voters unnecessarily increases the costs of running an initiative campaign. The process no longer is grassroots in nature but is, rather, a high-powered advertising campaign" (NCSL, 2002, p. 51). In addition, there is the problem of distinguishing

---

<sup>1</sup> California, Idaho, Massachusetts, Montana, and Nevada.

<sup>2</sup> California, Idaho, Massachusetts, Montana, Oregon, and Washington.

<sup>3</sup> Alaska, Arizona, California, Colorado, Idaho, Massachusetts, Montana, Nevada, Oregon, Utah, and Washington,

between factual information, purely partisan advertising, and outright disinformation—a challenge that has increased as the use of social media has increased.

The flood of TV ads for or against citizen initiatives can seem overwhelming. In 2016 (the last year for which information is available), there were five Maine CIs and 15,937 ads aired on Portland, Bangor and Presque Isle television stations. The breakdown is as follows:

**Table 7.1. Television Advertising in Maine for 2016 Citizen Initiatives**

Question	Subject	Total Ads	Total Pro	Total Con
1	Marijuana	3723	3701	22
2	Tax for School Funding	4032	3790	242
3	Gun Background Checks	4540	3971	569
4	Minimum Wage	1761	1761	0
5	Ranked-choice Voting	1881	1881	0

Source: Compiled by Study Committee from data provided by Michael Franz, [Wesleyan Media Project](#).

## 9. How Does Maine Manage Ballot Question Campaign Finance?

Although the LWVME and the League of Women Voters of the US (LWVUS) already have positions on campaign finance and money in politics, those positions focus on candidate elections and do not specifically address CI/PVR campaigns, which fall under the rubric of “ballot question” campaigns in Maine’s campaign finance legislation. Ballot question campaigns include any financial activity to support or oppose CIs, PVRs, bond issues, constitutional amendments, and legislatively referred referenda.

Developing a League position that addresses CI/PVR campaigns requires an understanding of (1) Maine’s structure and regulations for monitoring ballot question campaign financing; (2) levels and sources of money involved in recent CI/PVR campaigns; and (3) information available to voters about CI/PVR campaign finance.

### A. Campaign Finance Monitoring Structure and Regulations

**The Ethics Commission.** Maine’s campaign finance reporting began in 1973 and solidified in 1975 with the creation of the Maine Commission on Government Ethics and Election Practices, an independent state agency that administers all Maine’s campaign finance laws, the Maine Clean Election Act, and the lobbyist disclosure law.<sup>1</sup> The Commission consists of five members jointly appointed by the governor and legislative leaders for three-year terms. The Commission is bipartisan, and no more than two members may be enrolled in the same political party.<sup>2</sup> In addition to the 5-member commission, which provides overall direction, there are seven staff members (Maine Government, Maine Commission on Government Ethics website, About Us (n.d.)). The Ethics Commission’s biennium budget for the 2017-2018/2018-2019 period was approximately \$5.5 million (Maine State Legislature, Office of Fiscal and Program Review, 2019, pp. 271-274).

**Reporting Requirements.** Campaigns to support or oppose initiatives and referenda in Maine are subject to the general campaign finance rules described in [Title 21-A, Chapter 13 of the Maine Revised Statutes Annotated](#) (MRSA), of which [Subchapter 4: Reports by Political Action Committees](#) is most relevant to CIs/PVRs.<sup>3</sup> The Ethics Commission [homepage](#) provides links to a variety of aids for registering and reporting<sup>4</sup> and for public access to [campaign finance data](#) created by those reports. There is also a [Guidebook](#) for use by reporting organizations (Maine Government, Maine Commission on Government Ethics..., 2017).

Until the mid-1980s, the Ethics Commission focused on candidate financing. It was not until 1985, that Legislation explicitly required organizations “initiating or influencing ballot questions” (e.g., CI, PVR) to register with the Commission and report as Political Action Committees (PACs). In 1999, legislation

---

<sup>1</sup>The key legislation at the time was [P.L. 1973, c. 591](#) and [P.L. 1975, c. 621](#).

<sup>2</sup> See [Thistle](#) (2019, Nov) for a discussion of the current 18-month vacancy on the Board which is challenging its ability to remain nonpartisan.

<sup>3</sup> The rules apply to campaigns in general, defined by the Maine Revised Statutes to include candidate and all ballot question campaigns, including CI/PVR campaigns. (Maine State Statutes, [Title 21-A: Elections, Chapter 13: Campaign reports and finances, Subchapter 4: Reports by political action committees and ballot question committees, para 1052: Definition](#)).

<sup>4</sup> Sample forms are available for [PACs](#) and [BQCs](#) (Maine Government, Maine Commission on Government Ethics..., Forms, n.d.)

further clarified that “persons”<sup>5</sup> not qualifying as PACs—generally because their major purpose was not to influence a campaign (e.g., an individual, church, business association, social club) —had to register and report if they were collecting and/or disbursing funds to initiate or influence a CI or PVR. Since 2007, “persons” not qualifying as PACs have been labeled “Ballot Question Committees” (BQCs). Most filing rules for PACs and BQCs are similar with respect to CI/PVR campaigns:

- There are no limits on contributions or expenditures.
- This differs from rules for candidate campaigns, which do have contribution limits. The logic behind the difference is that candidates can be corrupted by contributions (e.g., bribed to vote for a contributor’s pet causes), but a ballot question cannot be corrupted.<sup>6</sup>
- Reports must itemize (a) donor names and addresses for all contributions over \$50, and (b) list payees and amounts paid for all expenditures to influence a ballot question.
- “Major contributors” of \$100,000 or more to a PAC or BQC must file independent reports if their contributions help to initiate or influence a ballot question (new since P.L. 2018, c. 418).<sup>7</sup>
- Filing dates are quarterly. Pre- and post-election reports are also required and are among the most demanding in the U.S.<sup>8</sup>
- Each report includes information about donors (e.g., names, addresses, amounts) and expenditures (e.g., the candidate or ballot question supported, names of the payees, dates and amounts of each payment).
- Communications<sup>9</sup> costing more than \$500 expressly advocating for or against a ballot question, must clearly and conspicuously state the name and address of the financial backer of the communication.
- Penalties exist for non-compliance.<sup>10</sup>
- Reporting organizations enter their own data on the Commission website, where it “goes live” immediately; review by Commission staff comes later.

The upside of the data-entry requirement is that reports are available immediately—particularly important for pre-election reports. The downside is that analysis of the website data is time-consuming and often requires interacting with Commission staff to resolve apparent discrepancies, often due to data entry errors.

A key difference between PACs and BQCs is that those filing as PACs must file when they reach \$1,500 in a calendar year in either contributions or expenditures while those filing as BQCs do not have to register

---

<sup>5</sup> Under Maine Election law, the term “person” includes individuals, committees, firms, partnerships, corporations, associations, or organizations. ([Maine State Statutes, Title 21-a: Elections, Chapter 13: Campaign reports and finances Subchapter 1: General provisions, para 1001 Definitions](#)).

<sup>6</sup> In its 1978 *Bellotti* decision, the Supreme Court ruled that “the risk of corruption” it perceived “involving candidate elections is not present in a popular vote on a public issue” (Bowler, Donovan, & Karp, 2007).

<sup>7</sup> See [Thistle \(2018\)](#) for discussion of [L.D. 1865](#) passed by the 128<sup>th</sup> Legislature ([P.L. 2018 c. 418](#)).

<sup>8</sup> During the 13 days before an election, PACs and BQCs must report within 24 hours any single contribution of \$5,000 or more or any single expenditure of \$1,000 or more.

<sup>9</sup> Including “... via broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications...” (Maine State Statutes, [MRSA, Title 21-A, Section 1055-A](#) enacted in 2013).

<sup>10</sup> See [Thistle \(2017, Nov\)](#) for examples.

and report until they hit \$5,000. There are also some subtle differences in handling “operating expenses.” The logic behind the differences and the impact that they have on estimates of spending for a particular organization is not clear, raising questions about the transparency and fairness of this particular reporting requirement. The differences also complicate estimates of total expenditures per ballot question.

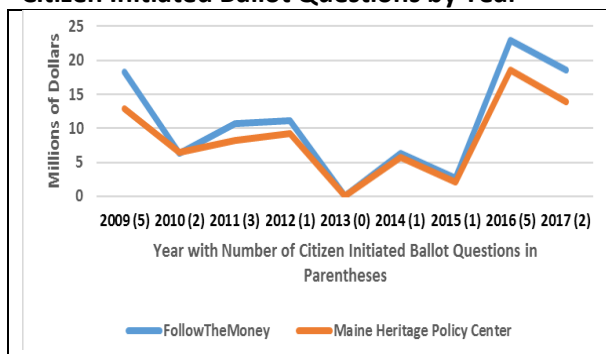
In general, however, Maine’s campaign finance reporting system is as rigorous as, if not more so than, systems in place in other states. Maine collects the same type of information, with the same or greater frequency, and has similar provisions for review of the data provided and imposition of penalties if the laws are not followed (see Appendix 9.1 for comparisons by state). The 2018 Maine Heritage Policy Center report (MHPC), which involved extensive analysis of the Commission database, concluded: “Overall, the data maintained and published by Maine Ethics Commission for public consumption is useful and reliable, and the commission offers a valuable public service to the people of Maine” (Posik & Sigaud, 2018, p, 27). Our Study Committee review of the Commission database supports this conclusion. The data and analyses summarized in the next section of this report, regardless of who did the analyses, all had their origins in the Commission’s campaign finance database.

### B. Estimated Levels of Ballot Question Financing in Maine: Does it Matter?

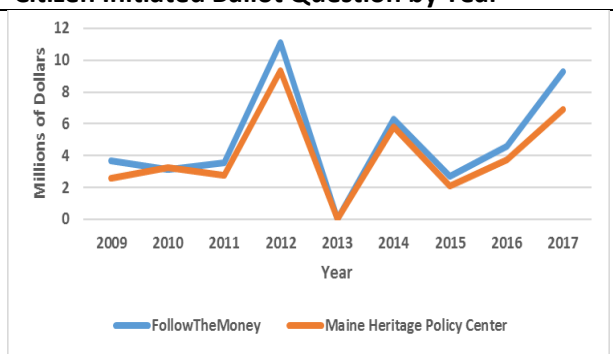
In 2018, the Commission reporting system registered \$43.4 million in campaign contributions, of which 11% (\$4.6 million) were expenditures for CIs/PVRs; specifically, the Ranked-choice Voting PVR on the June, and the Home Health Care Initiative on the November ballots. Editorials and newspaper articles about CIs/PVRs during the recent past as well as the MHPC 2018 report mentioned above raise alarm bells about the amount of money involved in Maine’s ballot question campaigns and the share of that money coming from individuals or organizations outside of Maine. Appendix 9.2 includes links to a number of these articles.

While it is true that some CI/PVR ballot questions have generated millions of dollars in expenditures by supporters and opponents, the available data summarized in the graphs below show a saw-tooth pattern rather than the steady upward trend often anticipated in the absence of contribution and expenditure limits.

**Figure 9.1. Estimates of Total Spending on Citizen Initiated Ballot Questions by Year**



**Figure 9.2. Estimates of Average Spending Per Citizen Initiated Ballot Question by Year**



Source: Prepared by Study Committee from nominal spending data reported in Posik and Sigaud (2018).

Notes: There were no CI/PVR ballot questions in 2013.



The 2012 peak in average spending (graph on right) was due to a single CI to legalize same-sex marriage. The conventional wisdom that expenditures are steadily increasing is challenged when the numbers are adjusted for inflation; real spending on the 2012 marriage CI was slightly lower than spending on the earlier 2009 PVR addressing the same controversial issue.

Differences in FollowTheMoney and MHPC estimates in the graphs above reflect different assumptions used to aggregate the Ethics Commission data. Appendix 9.3 provides a list of factors contributing to different estimates and examples of the estimates available for Maine’s 2017 and 2018 ballot questions, with a few differences as large as \$4 million. Wildly different estimates are not exclusive to Maine, but relevant to all ballot question databases across the U.S. Database issues leading to these differences are often mentioned by FollowTheMoney and Ballotpedia when reporting their estimates of contributions or expenditures for a particular ballot question.

Participants in the League sponsored Democracy Forum on citizen initiatives ([WERU-FM, 2019](#)) discussed high levels of spending on ballot questions. Analysis by participant Michael Franz shows that the number of Maine TV ads for ballot questions from 2010 to 2016 (a proxy for spending) exceed those for presidential and senatorial contests.

MHPC notes with concern the geographic origin of contributions—from 2009 through 2017, it estimates that an average of 71% of ballot question donations came from outside Maine. Much of this funding supported controversial ballot questions such as the York County casino, bear hunting restrictions, and background checks for gun purchases—none of which passed despite the heavy spending. MHPC also reported that out-of-state sources provided more ballot question funding than in-state sources in all but two years. Groups introducing and/or supporting a citizen-initiated ballot question tended to rely more on out-of-state funding (75% of their funding on average) than groups opposing proposed measures (53%).<sup>11</sup>

While recognizing that ballot questions were bringing a lot of money into Maine from away, one columnist was more sanguine about the ability of Mainers to see past the money when they cast their votes.

Maine voters are smart. They often see right through flawed citizen initiatives. We’ve witnessed that on a whole variety of referenda in recent years: Mainers rejected Shady Shawn’s casino scam, Michael Bloomberg’s gun control measure, the anti-bear baiting referendum and the referendum to expand home care. All of these ballot measures saw huge influxes of money from away, and yet all went down to defeat (Fossel, 2019).

### C. Ballot Question Finance Information Directly Available to Voters

The Ethics Commission website is available to all and permits downloading of the entire database in Excel-compatible files. Since most voters do not possess advanced data analysis skills, the Ethics Commission provides summary graphs and tables via a number of user-friendly menus. The summaries of most interest to this study are those for individual PACs and BQCs, and those for individual ballot questions.

---

<sup>11</sup> All numbers in this paragraph are from Posik and Sigaud (2018, p. 20-21).

**PAC & BQC summaries** are available from 2014 forward. This [link](#) uses the Committee on Ranked-choice Voting PAC to illustrate how easy it is to track contributions and expenditures by a particular organization. Contributions are summarized by source (individual, business, non-profit, etc.), by in-versus out-of-state, and by town. Expenditures are shown by purpose (using 19 Commission-established categories to ensure consistency), by payee’s state, and by type of payee (business, non-profit, etc.). There is also a link to PDF copies of each of the underlying reports submitted by every organization.

**Ballot question summaries** that combine information from each PAC and BQC having supported or opposed a particular ballot question are only available from 2018. The Commission plans to continue doing this for future ballot questions (CI, PVR, and bond issues), but lacks resources to do this retroactively for earlier years.<sup>12</sup> This is a particularly welcome addition as compiling information from multiple PAC/BQC reports to develop an estimate of total contributions and expenditures for a particular ballot question is a very time consuming task fraught with all sorts of challenges that are described by Posik and Sigaud (2018) and mentioned by national aggregators of campaign finance data such as Ballotpedia and FollowTheMoney.

Examples of the Commission summaries are available for the 2018 [Home Care for Seniors](#) CI and [Ranked-choice Voting](#) PVR. The summaries contain a list of organizations supporting and opposing each ballot question and amounts spent by each. Separate expenditure graphs for supporters and opponents present totals summed across all PACs and BQCs reporting. The summaries break the expenditures down for supporters and opponents by purpose, type of payee, and in- versus out-of-state.

The Commission’s reporting by ballot question should reduce, but will probably not eliminate, the confusion caused by conflicting estimates of CI/PVR spending reported by organizations such as Ballotpedia, FollowTheMoney, and MHPC.

Despite the data challenges, a wealth of information is available on the Ethics Commission website. Future improvements might include (1) a pre-election publication that provides voters with an overview of who has contributed how much to support or oppose each ballot question—perhaps something that could be added to the Citizen’s Guide, and (2) the addition of a “methods” section to explain how the Commission has handled the estimation issues listed in Appendix 9.3 when summarizing campaign finance by ballot question.

---

<sup>12</sup> Personal email communication from Paul Lavin, Assistant Director, Maine Ethics Commission.

## Glossary

This glossary focuses on terminology about CIs and PVRs that can be confusing because it is technical or there is inconsistency in the use of the terms. The glossary offers insights into how the terms are used in the Study Report, in Maine in general, and in documents about the initiative and referendum process across the U.S.

<b>Advisory initiative/referendum</b>	The legislature, the governor, or a citizen places a question on the ballot asking voters their opinion on an issue. The question is general in nature, and does not contain specific constitutional or statutory language. This type of initiative is not binding; however, it encourages citizen participation while allowing the legislature to handle the statutory or constitutional steps necessary for the implementation and administration of the policy if approved by voters (NCSL, 2002, p. 6). This type of initiative has not been used in Maine. See also “general policy initiative”.
<b>Approved petition</b>	See “petition-approved”.
<b>Ballot question</b>	<p>This term generally refers to a short description of the content and intent of a proposed ballot measure (e.g., CI, PVR, bond issue, constitutional amendment or legislatively referred referendum) presented to voters on the ballot. The exact wording of a ballot question is often controversial. In Maine, the SoS, in consultation with others, makes the final determination of language used. Recent legislation calls for the SoS to write the ballot question “as simply as is possible” and requires an explanation of the meaning of a “yes” or “no” vote directly on the ballot. Maine voters have an opportunity to review and comment on the SoS’s drafts of ballot questions.</p> <p>The term is also used by the Maine Ethics Commission to differentiate campaign finance rules that apply to candidates and their supporters from those that apply to individuals and organizations collecting contributions or making expenditures to influence the outcome of a “ballot question”.</p> <p>The terms “ballot question,” “ballot measure,” and “referendum” are often used interchangeably in the general literature when referring to policy issues put before voters on the ballot.</p>
<b>Ballot question committee</b>	An individual or organization that does not meet the definition of a political action committee as defined in <a href="#">21-A M.R.S.A. §1052(5)</a> , but receives or spends more than \$5,000 to <a href="#">initiate or influence</a> the outcome of a statewide ballot question, is considered a ballot question committee and must <a href="#">register and file campaign finance reports</a> with the Maine Ethics Commission.
<b>Bureau of Corporations, Elections &amp; Commissions</b>	The State of Maine Bureau in the Department of the Secretary of State that supervises and administers all elections of federal, state and county offices and referenda and advises election officials in municipalities, candidates, and the general public regarding election laws and procedures; prepares, proofreads and distributes election materials; tabulates official election results; supervises recounts in contested races;

	and oversees the application of state laws pertaining to candidate and citizen-initiated petitions. The Division of Elections within this Bureau is responsible for many of the tasks associated with the CI/PVR process.
<b>Campaign</b>	Any course of activities to influence the nomination or election of a candidate or to initiate or influence any of the following ballot measures: a people's veto referendum, a direct initiative of legislation/CI, an amendment to the Constitution of Maine, a referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote; the ratification of the issue of bonds by the State or any agency thereof; any county or municipal referendum.
<b>Certified Petition</b>	See "petition-certified".
<b>Circulation period</b>	A period of 18 months from the "date of issuance" during which signatures of registered voters may be obtained to support the citizens' initiative petition. Since no signature can be more than one year old when submitted to the SoS, the actual signature-collection period is limited to one year.
<b>Circulator</b>	A person who solicits signatures for petitions. In Maine, a circulator must be a resident of Maine and a registered voter. The circulator's name must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor.
<b>Citizens' Initiative</b>	<p>A citizens' initiative is a <u>proposed statute and/or constitutional amendment</u> initiated by citizens; there are two types of citizens' initiative.</p> <ul style="list-style-type: none"> <li>• A "direct" initiative is placed directly on the ballot for a popular vote after a petition process collects the requisite number of signatures.</li> <li>• An "indirect" initiative must go to the Legislature before it can appear on the ballot. The initiative question may be placed on the ballot if the legislature rejects it, submits a different proposal or takes no action.</li> </ul> <p>The "indirect" initiative is the type of initiative authorized in the Maine Constitution, although the Constitution refers to it as a "direct initiative". In the study report, we use the term "citizens' initiative" when referring to Maine's initiatives, unless quoting directly from statutes or documents that use the term "direct initiative". The terms "citizens' initiative" or simply "initiative" are also used in the general literature on citizen-initiated legislation, when there is no need to distinguish between the two main types of citizen-proposed legislation.</p> <p>Note that although a people's veto referendum is initiated by citizens, the Study Report does not refer to it as a citizen initiative because it does not propose a statute or amendment; it proposes the repeal of existing legislation. It is referred to in the general literature as a referendum or a people's veto referendum.</p>

<b>Date of issuance</b>	The date the Maine SoS provides the “approved petition” form to the voter(s) having submitted the application for the CI or PVR; also the date that the 18 month circulation period starts.
<b>Democracy (types of)</b>	A democracy is a system of government by the whole population or all the eligible members of a state. Two types of democracy are often compared: <ul style="list-style-type: none"> <li>• Representative democracy is founded on the principle of elected officials making policy decisions for a group of people whom they represent. The U.S. is generally considered a representative democracy.</li> <li>• Direct or participatory democracy promotes opportunities for individuals to make direct decisions about how they will be governed and to play a central role in making policy decisions. CIs and PVRs increase opportunities for citizens to directly participate in policy making.</li> </ul>
<b>Representative democracy</b>	
<b>Direct/Participatory democracy</b>	
<b>Direct democracy</b>	See “democracy (types of)”.
<b>Direct initiative</b>	See “citizens’ initiative - direct”.
<b>Division of Elections</b>	The state government agency in Maine that oversees the application of state laws pertaining to citizen-initiated petitions. It is a subdivision of the Bureau of Corporations, Elections & Commissions in the Department of the SoS.
<b>Election official</b>	The person responsible for overseeing election laws and procedures. The term is often used in Maine statutes to refer to municipal election clerks responsible for maintaining voter registration files and certifying signatures on petitions.
<b>Electors</b>	Registered voters eligible to vote for governor.
<b>Explanatory statement</b>	A brief explanatory statement that describes the intent and content of a citizens’ initiative and people’s veto referendum (and other proposals) and what a “yes” vote favors and a “no” vote opposes; prepared by the Attorney General, with the assistance of the Secretary of State and included in the Maine Citizens’ Guide.
<b>Filing deadlines</b>	The dates by which petitions for people’s veto referenda or citizens’ initiatives must be filed. First Regular Session: By 5:00 p.m. on or before the 50th day after the convening of the Legislature. The first regular session convenes on the first Wednesday of December following the General Election. Second Regular Session: By 5:00 p.m. on or before the 25th day after the convening of the Legislature. The second regular session convenes on the first Wednesday after the first Tuesday in January in the even-numbered year following the General Election.
<b>Fiscal impact statement</b>	Brief descriptions of the estimated effect of a bill or amendment on the finances of Maine State Government, prepared by the Office of Fiscal and Program Review (OFPR), a non-partisan staff office of the Legislature. Fiscal notes are intended to accurately and objectively describe the fiscal impact of bills and amendments so that the Legislature can make informed decisions with respect to state and local government finances. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution, statewide referendum, citizen initiative or bond issue will have on the General Fund, the Highway Fund, Other Special

	Revenue Funds and the amounts distributed by the State to local units of government.
<b>Freedom of Citizen Information</b>	Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary and fiscal impact statement prepared by the Secretary of State. The summary presented to the voter must be as it appears on a publicly accessible website established by the Secretary of State.
<b>General election</b>	Elections held on the first Tuesday following the first Monday in November.
<b>General policy initiative</b>	A general policy initiative is similar to an “advisory initiative,” except that it is binding upon the legislature. If the voters pass a citizen initiative of a general sort—for instance, expressing their desire that the state use tobacco settlement revenues for improving health care—it is up to the legislature to enact the specific laws required to implement that general policy. It permits direct public input to the policymaking process but uses a more deliberative approach to crafting detailed policy. The general policy initiative offers citizens the opportunity to put their policy ideas before the voters, but offers legislatures more flexibility in implementing voter mandated policy than does the “direct” and “indirect” initiative process (NCSL, 2002, p. 7). This type of initiative has not been used in Maine.
<b>Geographic-distribution requirements</b>	A formula that determines the minimum number of signatures required on a validated petition for a geographic area, such as by congressional district or judicial circuit.
<b>Issuance date</b>	See “date of issuance”.
<b>Indirect initiative</b>	See “citizens’ initiative-indirect”.
<b>Legislative Referendum/Referral</b>	A proposed or newly enacted law or proposed constitutional amendment placed on the ballot by the legislature for voter approval (see also, “referendum”).
<b>Maine Commission on Government Ethics and Election Practices</b>	An independent state agency that administers Maine’s campaign finance laws, the Maine Clean Election Act, and the lobbyist disclosure law. It also issues advisory opinions and conducts investigations regarding legislative ethics. All campaign finance reporting for CI/PVR campaigns is managed by this commission.
<b>Measure</b>	An Act, bill, resolve, or resolution proposed by the people (or any portion or portions of an Act, bill, resolve, or resolution); also referred to as a “ballot measure” or a “ballot question”.
<b>Notary public</b>	A Maine resident (and special NH residents) authorized by the Secretary of State to formally witness transactions involving paper documents (e.g., the circulator’s oath on a petition). The Secretary of State may invalidate a petition if unable to verify the notarization of a petition.
<b>Oath of the Circulator</b>	A statement by the circulator that all of the signatures on the petition were made in the presence of the circulator and that to the best of the circulator’s knowledge and belief each signature is the signature of the person whose name it purports to be.

<b>Office of Fiscal and Program Review</b>	A nonpartisan office operating under the direction of the Legislative Council and its Executive Director. The office collects, researches and analyzes fiscal and program information related to the finances and operation of State Government for legislators, legislative committees and commissions. As a part of this role the Office analyzes the Governor's budget and other appropriation requests, reviews all bills and amendments for their fiscal impacts to provide projections of revenue and expenditures and monitors agency financial status (including transfers of funds).
<b>Office of the Revisor of Statutes (ROS)</b>	One of the nonpartisan offices serving the Legislature. The Revisor's Office performs four primary functions: legislative drafting and editing; engrossing; publishing of statutes; and maintaining a statutory database. The Revisor's Office is the Legislature's central production office where all legislative instruments, including bills and amendments, are initially filed and then produced in final form for introduction. The Revisor may be consulted by the SoS when reviewing drafts of CI legislation.
<b>Participatory democracy</b>	See "democracy (types of)".
<b>People's veto referendum (PVR)</b>	A type of citizen-initiated ballot measure that asks voters whether to uphold or repeal a law passed by the state legislature or some other legislative body, but not yet in effect. In Maine, the request to initiate a people's veto must be filed with the Secretary of State within ten business days after adjournment of the legislative session having passed the legislation in question. If the petitioner collects the required number of signatures, the request for veto goes directly to the ballot and must be approved by a majority of voters for repeal to take place. Although the PVR is initiated by citizens, we do not refer to it a citizens' initiative. In the general literature on this topic, the term "initiative" is generally applied to citizen-proposed legislation, while the term "referendum" is generally applied to repeals.
<b>Petition</b>  <b>Approved Petition or Petition Form</b>  <b>Certified Petition or Written Petition</b>	A formal written request, typically one signed by many people, appealing to authority with respect to a cause such as those addressed by CI and/or PVR. The term can have a number of qualifiers in Maine that differentiate different steps in the CI/PVR petitioning process. Although not all documents use identical terminology, we have tried to consistently use the following terms in our study documents. <ul style="list-style-type: none"> <li>• A petition approved by the SoS, provided by the Election Division, printed by the voter, and circulated by proponents to collect signatures. The approved petition must be printed on paper no larger than 11" x 17", and provide the following: text of the legislation, instructions for petitioners, common reasons signatures are rejected, circulator's oath, notarial certificate, certification of the registrar, summary of the initiative content and intent, and the Freedom of Citizen Information statement.</li> <li>• Three steps lead to petition certification: <ol style="list-style-type: none"> <li>(1) The circulator signs and verifies by oath or affirmation before a notary public that s/he personally witnessed all of the</li> </ol> </li> </ul>

<p><b>Validated Petition</b></p>	<p>signatures to the petition and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be.</p> <p>(2) The notary public or other authorized person must sign the notarial certificate on the petition while in the presence of the circulator.</p> <p>(3) The election official authorized by law to maintain the voting list in the city, town or plantation in which the petitioners reside (usually a local registrar) certifies that each signature on the petition is that of a registered voter. These steps must be implemented in accordance with the deadlines outlined in the Maine Constitution.</p> <ul style="list-style-type: none"> <li>• All certified petitions are submitted in bulk to the SoS, who determines if the petition includes the requisite number of valid signatures and has adhered to other relevant rules; if so, the SoS validates the petition and passes it on to the Legislature for action.</li> </ul>
<p><b>Petitioner/proponent</b></p>	<p>Generally refers to the registered voter who submits an application for a citizens' initiative or a people's veto referendum.</p> <p>The term "petitioner" is also used to refer to each individual who signs a petition.</p>
<p><b>Petition organization</b></p>	<p>A business entity that receives compensation for organizing, supervising or managing the circulation of petitions for a CI or a PVR. In Maine, a petition organization must file an application with the Secretary of State prior to organizing, supervising, or managing the circulation of petitions for a CI or a PVR. The application must include the draft ballot question or title of each CI or PVR for which the petition organization will receive compensation, contact information for the organization, the name and signature of a designated agent, and a list containing the names of all individuals hired by the organization to assist in circulating petitions or in organizing, supervising or managing the circulation. The list must be updated and resubmitted to the SoS when the petitions are filed. The information on the registration form must be available for public inspection and posted on the SoS publicly accessible website.</p>
<p><b>Political action committee (PAC)</b></p>	<p>Political action committees include:</p> <ol style="list-style-type: none"> <li>(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to initiate or influence a campaign;</li> <li>(2) Any organization, including any corporation or association, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and</li> <li>(3) Any organization that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.</li> </ol> <p>Not included as PACs are:</p>



	<p>(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;</p> <p>(2) A candidate's authorized political committee under section 1013-A, subsection 2;</p> <p>(3) A party committee under section 1013-A, subsection 3; or</p> <p>(4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State.</p>
<b>Referendum</b>	A general vote by the electorate on a single political question which has been referred to them for a direct decision. In Maine, a referendum may take any one of the following forms: PVR, CI, a bond issue, a statute and/or a constitutional amendment referred to voters by the Legislature.
<b>Referendum election</b>	Any election which includes a referendum question.
<b>Representative democracy</b>	See “democracy (types of)”.
<b>Secretary of State</b>	In Maine, a constitutional officer, elected for a two-year term, in the First Session of the Legislature, by a joint vote of the Maine House and Senate. In the study report, there are many CI/PVR responsibilities assigned to the “Secretary of State” or “SoS”; this often refers to the Department of the Secretary of State in general rather than to the individual person occupying the office, although the latter has the final responsibility.
<b>Statewide election</b>	Any election held throughout the state on a particular day.
<b>Summary of proposal</b>	A concise summary that objectively describes the content of a proposed law, provided by the State Revisor of Statutes and approved or amended by the Secretary of State. The summary (and the fiscal impact statement) must be printed on the petition form.
<b>Voter</b>	A person registered to vote in the State of Maine.

## References Cited

This list covers both the Study Report and the Consensus Question Packet.

Ballot Initiative Strategy Center (BISC).

(n.d.). History of the Ballot Initiative. <https://ballot.org/> provides access to a 2 minute video with BISC views on past and present use of the initiative and referendum; also available at <https://www.youtube.com/watch?v=-cJEM336UUQ&feature=youtu.be> accessed 1/15/20.

(n.d.). BISC: The first 20 years. <https://ballot.org/bisc-history/> accessed 1/8/20.

Ballotpedia...multiple web pages listed alphabetically by topic and last accessed 12/2/19.

(n.d.) Amending state constitutions. [https://ballotpedia.org/Amending\\_state\\_constitutions;](https://ballotpedia.org/Amending_state_constitutions;)

(n.d.) Article XLVIII, Amendments to the MA Constitution.

[https://ballotpedia.org/Article\\_XLVIII,\\_Amendments\\_to\\_the\\_Massachusetts\\_Constitution](https://ballotpedia.org/Article_XLVIII,_Amendments_to_the_Massachusetts_Constitution)

(n.d.) Distribution requirement. [https://ballotpedia.org/Distribution\\_requirement](https://ballotpedia.org/Distribution_requirement)

(n.d.) Distribution requirements, see arguments section.

[https://ballotpedia.org/Distribution\\_requirement](https://ballotpedia.org/Distribution_requirement)

(n.d.) Laws governing the Initiative process in Utah.

[https://ballotpedia.org/Laws\\_governing\\_the\\_initiative\\_process\\_in\\_Utah](https://ballotpedia.org/Laws_governing_the_initiative_process_in_Utah)

(n.d.) Legislative alteration. [https://ballotpedia.org/Legislative\\_alteration](https://ballotpedia.org/Legislative_alteration)

(n.d.) Legislative alterations of ballot initiatives.

[https://ballotpedia.org/Legislative\\_alterations\\_of\\_ballot\\_initiatives](https://ballotpedia.org/Legislative_alterations_of_ballot_initiatives)

(n.d.) Nevada State Constitutional Rights.

[https://ballotpedia.org/Nevada\\_State\\_Constitutional\\_Rights\\_of\\_Voters\\_Amendment\\_\(2020\).](https://ballotpedia.org/Nevada_State_Constitutional_Rights_of_Voters_Amendment_(2020))

(n.d.) Single Subject Rules. [https://ballotpedia.org/Single-subject\\_rule](https://ballotpedia.org/Single-subject_rule)

(n.d.) Subject restrictions (ballot measures).

[https://ballotpedia.org/Subject\\_restrictions\\_\(ballot\\_measures\)](https://ballotpedia.org/Subject_restrictions_(ballot_measures))

Bangor Daily Brews. (2019, Jul 30). "Is it time for referendum reform?" Podcast moderated by Susan Young with Jacob Posik of Maine Heritage Policy Center and Carroll Conley, Jr. of the Christian Civic League of Maine as participants. <https://bangordailynews.com/video/bangor-daily-brews-is-it-time-for-referendum-reform/> accessed 11/25/19.

*Bangor Daily News* Editorial Board (2019, Mar 5). How referendum reform can help the unhelpful two Maines discussion. A BDN editorial. <https://bangordailynews.com/2019/03/05/opinion/editorials/how-referendum-reform-can-help-the-unhelpful-two-maines-discussion/> accessed 1/15/20.

*Bangor Daily News* Editorial Board. (2019, Apr 2). A fair hearing for referendum reform. BDN editorial. <https://bangordailynews.com/2019/04/02/opinion/editorials/a-fair-hearing-for-referendum-reform/> accessed 11/27/19.

Berman, Ari. (2019, Oct 1). After voters passed progressive ballot initiatives, GOP legislatures are trying to kill future ones. *Mother Jones*.

<https://www.motherjones.com/politics/2018/12/after-voters-passed-progressive-ballot-initiatives-gop-legislatures-are-trying-to-kill-future-ones/> accessed 11/25/19.

Bowler, Shaun; Donovan, Todd & Karp, Jeffrey. (2007). Enraged or Engaged? *Political Research Quarterly*, V60 N3, p. 351-362.

- Brautigam, John. (2018, Feb 9). Citizen initiatives put power in right hands. *Maine Compass*. <https://www.centralmaine.com/2018/01/19/maine-compass-citizen-initiatives-put-power-in-right-hands/> accessed 11/27/19.
- Broder, David. (2000). *Democracy Derailed*. New York: Harcourt, Inc.
- Chapman, Liz. (2006 Jul). Maine TABOR Part of National Campaign, *Maine Townsman*. [https://www.memun.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=4620&Command=Core\\_Download&language=en-US&PortalId=0&TabId=119](https://www.memun.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=4620&Command=Core_Download&language=en-US&PortalId=0&TabId=119)
- City Club of Portland [OR]. (2008). Making the Initiative Work for Oregon. <https://olis.leg.state.or.us/liz/2013R1/Downloads/CommitteeMeetingDocument/13025> accessed 11/1/19.
- Commission to Study Alternative Voting Procedures. (2006, Jan). Final report of the Maine commission to study alternative voting procedures, the citizen initiative process and minor party ballot access. <https://www.maine.gov/legis/opla/electrpt.pdf> accessed 10/4/2019
- Constitutional Dictionary. (2010, Aug 15). Republic. <https://www.usconstitution.net/glossary.html#REPUBLIC> accessed 11/27/19.
- Cousins, Christopher. (2016, Dec 11). Why Maine voters won't have the last word on referendums they passed, *Bangor Daily News*. <http://bangordailynews.com/2016/12/11/the-point/why-maine-voters-wont-have-the-last-word-on-referendums-they-passed>. Accessed 11/25/19.
- Crepeau, Adam. (2019 Mar 5). All Mainers should have a say in what issues make it on the statewide ballot. *Maine In Focus*. Maine Heritage Policy Center Press Release. <https://mainepolicy.org/all-mainers-should-have-a-say-in-what-issues-make-it-on-the-statewide-ballot/> accessed 11/1/19.
- Cronin, Thomas E. (1989). *Direct Democracy: The politics of initiative, referendum, and recall*. Cambridge: Harvard University Press.
- Culp-Ressler, Tara. (2018, Nov 24). Maine's Gov. LePage uses final days in office to resist expanding Medicaid. *ThinkProgress*. <https://thinkprogress.org/maines-gov-lepage-uses-final-days-in-office-to-resist-expanding-medicaid-d6ee54f2e66b/> accessed 11/27/19.
- Dyck, Joshua and Lascher, Edward Jr. (2019). More ballot initiatives won't make Americans feel better about politics. *The Fulcrum*. <https://thefulcrum.us/expanding-direct-democracy-wont-make-americans-feel-better-about-politics> accessed 1/15/20.
- Ellis, Richard. (2002). *Democratic Delusions: The Initiative Process in America*. Lawrence, Kansas: University Press of Kansas.
- Emanuel, Gabrielle. (2018 Oct 22). Lawmakers Consider Including 'Citizens' Statements' In The State's Voter Guide WGBH News (Boston PBS station). <https://www.wgbh.org/news/politics/2018/10/22/lawmakers-consider-including-citizens-statements-in-the-states-voter-guide> accessed 12/2/19.
- Fish, Scott. (2018, Sep 3). Maine's ballot question approval process: Fix it. *Piscataquis Observer*. <https://observer-me.com/2018/09/03/maines-ballot-question-approval-process-fix-it/> accessed 1/15/20.
- FollowTheMoney. (n.d.). FollowTheMoney Website. <https://www.followthemoney.org/> accessed 12/2/19.
- Fossel, Jim.

- (2017, Mar 26). Lawmakers are free to tinker with citizen initiatives – respectfully. *Portland Press Herald*. <https://www.pressherald.com/2017/03/26/jim-fossel-lawmakers-are-free-to-tinker-with-citizen-initiatives-respectfully/?rel=related> accessed 12/4/19.
- (2019, updated Jan 7, appeared Jan 6). Maine lawmakers should trust citizen initiative process. *Portland Press Herald*. [https://www.pressherald.com/2019/01/06/jim-fossel-maine-lawmakers-should-trust-citizen-initiative-process/?utm\\_source=Headlines&utm\\_medium=email&utm\\_campaign=Daily](https://www.pressherald.com/2019/01/06/jim-fossel-maine-lawmakers-should-trust-citizen-initiative-process/?utm_source=Headlines&utm_medium=email&utm_campaign=Daily) accessed 11/29/19.
- Gallagher Noel. (2018 Oct 28). Maine Question 1 home-care initiative generates huge donations, many ads. *Portland Press Herald*. <https://www.pressherald.com/2018/10/26/maine-question-1-home-care-initiative-generates-huge-donations-many-ads/> accessed 12/3/19.
- Gilbert, Michael D. (2006). Single subject rules and the legislative process. *University of Pittsburgh Law Review* (Vol. 67:803-870).
- Gastil, John; Richards, Robert, & Knobloch, Katherine. (2014). Vicarious deliberation: How the Oregon Citizens' Initiative Review influenced deliberation in mass elections. *International Journal of Communication* 8(2014), 62–89. <https://pdfs.semanticscholar.org/6ee2/b9f396ff575ae947c92d53c7fc7ff1606213.pdf> accessed 11/3/19.
- Healthy Democracy.
- (n.d.). Citizens Initiative Review. <https://healthydemocracy.org/cir/> accessed 11/3/19.
- (n.d.). What does a healthy democracy look like? 4-minute video. <https://www.youtube.com/watch?v=oLmMSIjRDpA> accessed 11/13/19.
- (n.d.). CIR in Oregon. <https://healthydemocracy.org/cir/or/> accessed 11/15/19.
- Hepler, Christine I. (2007). *Researching Initiatives and Referenda: A Guide for Maine*. Legal Reference Services, The Haworth Press. Co-published simultaneously in *Legal Reference Services Quarterly* (The Haworth Information Press, an imprint of The Haworth Press) Vol. 26, No. 3/4, 2007, pp. 97-112; and: *Exploring Initiative and Referendum Law: Selected State Research Guides* (ed: Beth Williams).
- Johnson, Nick. (2018, Apr). Seizing the initiative: A short history of direct democracy in America. *Process: A blog for American history*. <http://www.processhistory.org/johnson-ballot-initiatives/> accessed 11/29/19.
- LWVCA. (2013). Position on Initiative and Referendum. <https://lwvc.org/position/initiative-and-referendum> accessed 12/1/19.
- LWVMA.
- (2018, Sep). Study of the ballot question process in Massachusetts: Study report. <https://lwvma.org/wp-content/uploads/2018/09/LWVMA-BQS-Study-Report-r.pdf> accessed 11/29/19.
- (2018, Dec 7). Study guide with consensus questions, background, and arguments in favor and against with expanded points of view for question 15. <https://www.lwvme.org/Impact.html> <https://www.lwvme.org/Impact.html> accessed 11/29/19
- LWVME.
- (2019, January). Impact on Issues. <https://www.lwvme.org/Impact.html> accessed 11/29/19

- (2018, October). Overview of the LWVME Study Process. [https://www.lwvme.org/sites/default/files/pdfs/LWVME\\_Study\\_Process.pdf](https://www.lwvme.org/sites/default/files/pdfs/LWVME_Study_Process.pdf) accessed 11/29/19.
- LWVOR. (2001). Oregon's initiative system: Current issues. <https://docs.google.com/viewer?a=v&pid=sites&srcid=bGVhZ3Vlb2Z3b21lbnZvdGVycy5vcmd8Y2xlYXJpbmdob3VzZXxneDozNmNkYmU4NTI1ZTZlZGY3> accessed 11/29/19.
- LWVUS. (2019). Impact on Issues: 2018-2020. <https://www.lwv.org/sites/default/files/2019-04/LWV%202018-20%20Impact%20on%20Issues.pdf> accessed 11/29/19
- LWVWA. (2001, Jun). Citizens Jury on the Citizens Initiative Review. <https://lwvwa.org/resources/Pictures/CJ CIR-Report-6-19-01.pdf> accessed 11/4/19.
- LWVWA Education Fund. (2002, Oct). Direct democracy: The Initiative and Referendum Process in Washington. <http://www.iandrinstitute.org/docs/WA-LOWV-2002-landR-Report-IRI.pdf> accessed 11/15/19.
- Maine Government, Maine Commission on Government Ethics and Election Practices (Ethics Commission).
- (n.d.). About Us. <https://www.maine.gov/ethics/about> accessed 9/4/19.
- (n.d.). Home. <https://www.maine.gov/ethics/> accessed 12/2/19.
- (n.d.). Campaign Finance. <https://www.mainecampaignfinance.com/#/index> accessed 12/2/19.
- (n.d.). BQ expenditure data accessed 9/4/19. <https://www.mainecampaignfinance.com/#/exploreBallotQuestionDetails/1/135/2018> on Home Health Care ballot question and <https://www.mainecampaignfinance.com/#/exploreBallotQuestionDetails/1/134/2018> on RCV PVR.
- (n.d.). Committee for Ranked-choice Voting Ethics Commission Data. <https://www.mainecampaignfinance.com/#/exploreCommitteeDetail/4958> accessed 12/2/19.
- (n.d.). Forms for PACs. <https://www.maine.gov/ethics/forms/pacs> accessed 12/2/19.
- (n.d.). Forms for BQCs. <https://www.maine.gov/ethics/forms/ballot-question> accessed 12/2/19.
- (2017, Jul). Guidebook for Political Action Committees & Ballot Question Committees. [https://www.maine.gov/ethics/sites/maine.gov.ethics/files/inline-files/pdf/2017\\_pac\\_bqc\\_guidebook\\_final\\_20170707.pdf](https://www.maine.gov/ethics/sites/maine.gov.ethics/files/inline-files/pdf/2017_pac_bqc_guidebook_final_20170707.pdf) accessed 11/15/19.
- Maine Government, Secretary of State.
- (n.d.). Citizens Initiatives and People's Veto. <https://www.maine.gov/sos/cec/elec/citizens/index.html> accessed 12/2/19.
- (2006). Rules regarding publication of public comments on statewide referenda. <https://www.maine.gov/sos/cec/elec/upcoming/pdf/250c520-1119.pdf> Accessed 10/4/19.
- (2018, Jun 12). Maine Citizen's Guide to the Special Referendum Election. <https://www.maine.gov/sos/cec/elec/upcoming/pdf/guide618.pdf> accessed 12/2/19.
- (2018, Oct 5). Citizens' Guide to the 2018 Maine Referendum Election now available online. <https://www.maine.gov/sos/news/2018/citizensguide.html> accessed 11/29/19.
- (2018, Nov 6). 2018 Maine Citizen's Guide to the Referendum Election. <https://www.maine.gov/sos/cec/elec/upcoming/pdf/citizensguide.pdf> accessed 12/2/19.

Maine Government, State of Maine Judicial Branch. (n.d.). Advisory Opinions and Other Original Proceedings. [https://www.courts.maine.gov/opinions\\_orders/supreme/advisory.html](https://www.courts.maine.gov/opinions_orders/supreme/advisory.html) accessed 11/29/19.

Maine State Constitution.

(n.d.). Article IV, Part Third, Sections 17 – 20 on People’s Veto and Direct Initiatives of Legislation (CI). <https://www.maine.gov/legis/const/#a4> accessed 12/2/19.

(n.d.). Article IV, Part Third: Section 19: Effective Date of Measures Approved by People. <https://www.maine.gov/legis/const/#a4> accessed 11/29/19.

(n.d.). Article VI, Section 3 (Judicial Power). [https://www.courts.maine.gov/opinions\\_orders/supreme/advisory.htm](https://www.courts.maine.gov/opinions_orders/supreme/advisory.htm) accessed 11/29/19.

Maine State Legislature, Acts and Resolve.

(1907). Acts and Resolves of the 73<sup>rd</sup> Legislature of the State of Maine, Chapter 121, p. 1476-7. [http://ldc.mainelegislature.org/Open/Laws/1907/1907\\_RES\\_c121.pdf](http://ldc.mainelegislature.org/Open/Laws/1907/1907_RES_c121.pdf) accessed 11/27/19.

(1947). Acts and resolves as passed by the ninety-second and ninety-third Legislatures of the state of Maine from April 22, 1945 to May 14, 1947 and miscellaneous State papers, pp. 1120-21. [http://ldc.mainelegislature.org/Open/Laws/1947/1947\\_RES\\_c037.pdf](http://ldc.mainelegislature.org/Open/Laws/1947/1947_RES_c037.pdf) accessed 12/2/19.

(1951). Acts and resolves as passed by the ninety-fifth Legislature of the state of Maine, p. 1053. [http://ldc.mainelegislature.org/Open/Laws/1951/1951\\_RES\\_c110.pdf](http://ldc.mainelegislature.org/Open/Laws/1951/1951_RES_c110.pdf) accessed 12/2/19 .

Maine State Legislature, Law Library.

(n.d.). Medical Marijuana in Maine. <http://legislature.maine.gov/lawlibrary/maines-medical-marijuana-law/9242> accessed 11/5/19 .

(n.d.). Recreational Marijuana in Maine. <http://legislature.maine.gov/lawlibrary/legalizational-of-marijuana-in-maine/9419> accessed 11/5/19 .

Maine State Legislature, Legal Documents (L.D.) referenced from 129th Legislature, all last accessed 12/2/19.

L.D. 252 Resolution on Constitutional Amendment to prohibit new or increased fees or taxes by means of Direct Initiatives <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280070958> .

L.D. 255 Resolution on Constitutional Amendment to require signatures on Direct Initiatives come from each Congressional District <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280070962> .

L.D. 294 An act to require the fiscal impact estimate of a Direct Initiative be included on the ballot <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280071054> .

L.D. 374 Resolution on Constitutional Amendment to require signatures on Direct Initiative come from each Senatorial District <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280071160> .

L.D. 499 An act to Prohibit Payment per Signature on Petitions for Direct Initiatives and People’s Veto Referendums. Amended version passed; it did not prohibit payment per signature but required reporting on how circulators were paid. <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280071338> .

L.D. 534 An act to make ballot questions easier to read. Amended version passed eliminating specific reference to 6th grade reading level and requiring that an explanation of the effect

of a “yes” and “no” vote appear on the ballot.

<https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280071411> .

L.D. 1083 An Act To Implement Ranked-choice Voting for Presidential Primary and General Elections in Maine

[https://legislature.maine.gov/legis/bills/display\\_ps.asp?LD=1083&snum=129](https://legislature.maine.gov/legis/bills/display_ps.asp?LD=1083&snum=129) .

L.D. 1209 An Act to require Legislative Hearings on Citizen-initiated Legislation. Amended version allows an exception if 2/3rds of members in each house of the Legislature vote against hearings. <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280072396> .

L.D. 1255 Resolution on Constitutional Amendment to require Referenda to receive 60% of the vote to become law.

<https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280072491> .

L.D. 1438 An Act To Clarify the Intent of Referendum Questions for Voters.

[https://legislature.maine.gov/legis/bills/display\\_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1438](https://legislature.maine.gov/legis/bills/display_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1438) .

L.D. 1565 Resolution, Proposing an Amendment to the Constitution of Maine To Protect Voter-approved Measures.

[https://legislature.maine.gov/legis/bills/display\\_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1565](https://legislature.maine.gov/legis/bills/display_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1565) .

L.D. 1669 Resolution, Proposing an Amendment to the Constitution of Maine To Help Ensure That Direct Initiatives of Legislation Are Compatible with the Constitution of Maine and Statutory Law.

[https://legislature.maine.gov/legis/bills/display\\_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1669](https://legislature.maine.gov/legis/bills/display_ps.asp?PID=1456&snum=129&paper=&paperId=l&ld=1669) .

Maine State Legislature, Legislative History Collection, all last accessed 12/2/19.

(2015). 127th Legislature. <http://legislature.maine.gov/lawlib/lldl/legishist127.htm>

(2017 May). Maine's Constitutional Provisions for Citizen Initiative and People's Veto.

<https://www.maine.gov/legis/lawlib/lldl/constprovcipv/>

(2017 Sep). Maine's Statutory Provisions for the Citizen Initiative and People's Veto.

<https://www.maine.gov/legis/lawlib/lldl/statprovcipv/>

(2018 Feb). Amendments to the Maine Constitution, 1820 – Present.

<https://legislature.maine.gov/legis/lawlib/lldl/constitutionalamendments/index.html>

(2019, May). Citizen Initiated Legislation, 1911- Present.

<https://www.maine.gov/legis/lawlib/lldl/citizeninitiated/>.

Maine State Legislature, Office of Fiscal and Program Review. (2019, Aug 1). Total Appropriations & Allocations, All Funds 2018-2019 Biennium, Updated August 1, 2019, Through the 128th

Legislature, 2nd Special Session. pp. 271-274. <http://legislature.maine.gov/doc/3079> accessed 9/2/19.

Maine State Legislature, Office of Policy and Legal Analysis. (2018, Nov). The Maine Legislators' Handbook for the 129<sup>th</sup> Legislature. <http://legislature.maine.gov/doc/2611> accessed 12/2/19.

Maine State Legislature, Public Laws.

PL 1973, c. 591 revises MRSA to require campaign finance reporting for ballot questions.

[http://lldc.mainelegislature.org/Open/Laws/1973/1973\\_PL\\_c591.pdf](http://lldc.mainelegislature.org/Open/Laws/1973/1973_PL_c591.pdf) accessed 12/2/19.

- PL 1975, c. 621 revises MRSA to create the Maine Commission on Government Ethics and Election Practices. [http://lldc.mainelegislature.org/Open/Laws/1975/1975\\_PL\\_c621.pdf%20](http://lldc.mainelegislature.org/Open/Laws/1975/1975_PL_c621.pdf%20) accessed 12/2/19.
- PL 2018 c. 418 revises MRSA 21-A Sec. 4. §1060 to require independent ballot question campaign finance reporting by “major donors” to PACs and BQCs. <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1301&item=3&snum=128> accessed 12/2/19.
- PL 2019 C. 414 revising MRSA 21-A, Chapter 11, Section 906 to make ballot question easier to read. <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0391&item=3&snum=129> accessed 12/2/19.
- Maine State Statutes, all last accessed 12/2/19.
- Title 1, Chapter 11, subchapter 2, para 353 Explanation of proposed amendments and statewide referenda. <https://legislature.maine.gov/statutes/1/title1sec353.html> accessed 12/2/19.
- Title 21A, Chapter 11, Section 906, paragraph 6. <https://legislature.maine.gov/statutes/21-A/title21-Asec906.html> accessed 11/1/19.
- Title 21-A, Chapter 11, Section 901(3-A). <https://legislature.maine.gov/statutes/21-A/title21-Asec901-A.html> accessed 11/1/19.
- Title 21-A, Chapter 13; Subchapter 4: Reports by Political Action Committees. <https://legislature.maine.gov/statutes/21-A/title21-Asec1052.html> accessed 11/29/19.
- Title 21-A, Chapter 13, Subchapter 4, Section 1055-. <https://legislature.maine.gov/statutes/21-A/title21-Asec1055-A.html> accessed 11/29/19.
- Title 21-A: Elections, Chapter 13: Campaign reports and finances, Subchapter 1: General provisions, para 1001 Definitions. <https://legislature.maine.gov/statutes/21-A/title21-Asec1001.html> accessed 12/2/19.
- Title 21-A: Elections, Chapter 13: Campaign reports and finances, Subchapter 4: Reports by political action committees and ballot question committees, para 1052 Definitions. <https://legislature.maine.gov/statutes/21-A/title21-Asec1052.html> accessed 12/2/19.
- Massachusetts Citizens’ Review.
- (2016). The 2016 Citizens’ Statement. <https://www.cirmass.org/the-citizens-statement> accessed 11/25/19.
- (2018). The Citizen’s Statement 2018. <https://www.cirmass.org/the-2018-citizens-statement> accessed 11/12/19.
- (n.d.). Democracy starts with you: What is the citizens’ initiative review? <https://www.cirmass.org/> accessed 11/13/19.
- Massachusetts Secretary of the Commonwealth. (2019 Jan). State ballot question petitions. <http://www.sec.state.ma.us/ele/elepdf/State-Ballot-Question-Petitions-01-2019.pdf> accessed 1/8/20.
- Matsusaka, John G. & Hasen, Richard L. (2010, January 29). Aggressive enforcement of the single subject rule for a review of studies. Article prepared for “The Past, Present, and Future of Election Law: A Symposium Honoring the Work of Daniel Hays Lowenstein,” UCLA School of Law. [https://gould.usc.edu/assets/docs/Matsusaka\\_Aggressive\\_Enforcement.pdf](https://gould.usc.edu/assets/docs/Matsusaka_Aggressive_Enforcement.pdf) accessed 11/29/19.



- McCarthy, Bill. (2008, Oct 30). Wyoming Tribune Eagle, "Confused about the amendments?" [https://www.wyomingnews.com/news/confused-about-the-amendments/article\\_5782ba0a-5c49-552b-9226-5b0b3fbf8f1b.html#.U\\_vc2fmD7Uw](https://www.wyomingnews.com/news/confused-about-the-amendments/article_5782ba0a-5c49-552b-9226-5b0b3fbf8f1b.html#.U_vc2fmD7Uw) accessed 11/29/19.
- Miller, Kenneth P. (2009). *Direct Democracy and the Courts*, Cambridge: Cambridge University Press.
- Miller, Kevin. (2018, May 3). Maine ballot initiative for elderly home care flawed, unconstitutional, opponents say. *Portland Press Herald*. <https://www.pressherald.com/2018/05/02/business-and-legal-experts-push-back-on-universal-home-care-ballot-initiative/> accessed 1/4/20.
- Mistler, Steve. (2017, Jun 19). All Voter-Approved Initiatives From 2016 Ballot In Flux In Legislature. All Things Considered with Nora Flaherty. <https://www.mainepublic.org/post/all-voter-approved-initiatives-2016-ballot-flux-legislature> accessed 11/29/19.
- National Citizens Initiative for Democracy (NCID). (n.d.). National Citizens Initiative For Democracy Website. [http://www.ncid.us/national\\_initiative](http://www.ncid.us/national_initiative) accessed 11/29/19.
- National Conference of State Legislatures.  
(2002 July). Initiative and Referendum in the 21st Century Final Report and Recommendations of the NCSL I&R Task Force. <http://www.ncsl.org/research/elections-and-campaigns/task-force-report.aspx> accessed 11/29/19.
- (2009). Single-subject rules. <http://www.ncsl.org/research/elections-and-campaigns/single-subject-rules.aspx> accessed 11/29/19.
- (2012). Initiative Petition Signature Requirements. <http://www.ncsl.org/research/elections-and-campaigns/signature-requirements.aspx> accessed 11/29/19.
- Nebraska Secretary of State. (2015 Aug). How to use the initiative and referendum process in Nebraska. [https://sos.nebraska.gov/elec/pdf/init\\_ref.pdf](https://sos.nebraska.gov/elec/pdf/init_ref.pdf) accessed 11/30/19.
- Newkirk, Vann R. II. (2018, April 18). American Voters Are Turning to Direct Democracy. *The Atlantic*. <https://www.theatlantic.com/politics/archive/2018/04/citizen-ballot-initiatives-2018-elections/558098/> accessed 11/29/19.
- Nicholson, Kayla & Canelo, S. (2016, June 28). Direct democracy in the United States. Retrieved from [Oxford Bibliographies.com](http://OxfordBibliographies.com), DOI: 10.1093/obo/9780199756223-0174. <https://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0174.xml> accessed 11/29/19.
- Norman, Ben. (2019, Apr 11). The Single Subject Rule: Pros and Cons. *The Chamber News*. <https://chamberbusinessnews.com/2019/04/11/the-single-subject-rule-pros-and-cons/> accessed 12/4/19.
- OregonLaws.org.(2017). Filing arguments for or against measure. 2017 ORS Vol. 6 Chapter 251 Section 251.255. <https://www.oregonlaws.org/ors/251.255%20> accessed 11/26/19.
- Packard, Melissa.  
(2019, Mar 4). Testimony on behalf of the Secretary of State concerning L.D. 374 "Resolution, Proposing and Amendment to the Constitution of Maine to Require that signatures on a direct initiative of legislation come from each senatorial district". <http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=128678> accessed 12/2/19.
- (2019, Apr 8). Testimony on behalf of the Secretary of State concerning L.D. 1438: An Act To Clarify the Intent of Referendum Questions for Voters. <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=116655> accessed 11/15/19.

- (2019, Apr 24). Testimony on behalf of the Secretary of State concerning L.D. 1565: Resolution, Proposing an Amendment to the Constitution of Maine To Protect Voter-approved Measures. <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=121821> accessed 12/3/19.
- Portland Press Herald. (2019 Sep 2). Our View: Maine House Republicans show how not to legislate. <https://www.pressherald.com/2018/09/02/our-view-maine-house-republicans-show-how-not-to-legislate/?rel=related> accessed 12/3/19.
- Posik, Jacob & Sigaud, Liam. (2018, Aug). The will of the people? Portland, Maine: Maine Heritage Policy Center. <https://mainepolicy.org/wp-content/uploads/BIReportFinal-compressed.pdf> accessed 11/29/19.
- Posik, Jacob. (2019 Feb 26). How lawmakers can add much needed transparency to the ballot initiative process. Maine In Focus. Maine Heritage Policy Center Press Release. <https://mainepolicy.org/how-lawmakers-can-add-much-needed-transparency-to-the-ballot-initiative-process/> accessed 11/29/19.
- Povich, Elaine. (2017 Jul 28). Lawmakers strike back against voter-approved ballot measures. *StateLine*, an initiative of The Pew Charitable Trusts. <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/07/28/lawmakers-strike-back-against-voter-approved-ballot-measures> accessed 11/26/19.
- Richards, Robert Charles. (2016). *Intersubjectively relevant information: An account of citizen-centered information and communication in democratic deliberation about ballot initiatives* (Doctoral dissertation). Pennsylvania State University, State College, PA). [https://etda.libraries.psu.edu/files/final\\_submissions/11822](https://etda.libraries.psu.edu/files/final_submissions/11822) accessed 3/19/2019.
- Taub, Amanda & Fisher, Max. (2016, Oct 4). Why Referendums Aren't as Democratic as They Seem. *The Interpreter*, *The New York Times*. <https://www.nytimes.com/2016/10/05/world/americas/colombia-brexit-referendum-farc-cameron-santos.html?module=inline>
- Thistle, Scott.
- (2017, Jun 8). Maine Senate votes to change voter-approved wage law by restoring tip credit. *Portland Press Herald*. <https://www.pressherald.com/2017/06/07/maine-senate-moves-towards-undoing-part-of-minimum-wage-law-passed-by-voters-last-fall/> accessed 11/27/19
- (2017, Nov 3). Maine ethics commission levies record \$500,000 in fines against York County casino campaign, *Portland Press Herald*. <https://www.pressherald.com/2017/11/03/maine-ethics-commission-levies-record-500000-in-fines-against-casino-campaign/> accessed 11/15/19.
- (2018, Mar 20). Bill would tighten rules for Maine's ballot-question process, *Portland Press Herald*. <https://www.pressherald.com/2018/03/20/bill-would-place-new-constraints-on-maines-citizen-initiative-process/> accessed 1/6/20.
- (2019, Sep 6). Gov. Mills allows ranked-choice voting in Maine's presidential elections. *Portland Press Herald*. <https://www.pressherald.com/2019/09/06/governor-mills-allows-ranked-choice-voting-in-maines-presidential-elections/> accessed 11/25/19
- (2019, Nov 3). Vacancy on state's ethics panel poses election-year risks, *Portland Press Herald*. <https://www.pressherald.com/2019/11/03/vacancy-on-state-ethics-panel-poses-election-year-risks/> accessed 11/3/19.

Tipping, Mike.

(2016, Feb 20). Citizen Initiatives offer Maine voters an unprecedented opportunity. *Portland Press Herald*. <https://www.pressherald.com/2016/02/20/mike-tipping-citizen-initiatives-offer-maine-voters-unprecedented-opportunity/> accessed 11/3/19.

(2017, Mar 31). Maine already has one of the most restrictive referendum processes in the country. *Bangor Daily News*. <http://thetippingpoint.bangordailynews.com/2017/03/31/state-politics/maine-already-has-one-of-the-most-restrictive-referendum-processes-in-the-country/> accessed 12/3/19.

U.S. Constitution, Article IV, Section IV. [https://www.usconstitution.net/xconst\\_A4Sec4.html](https://www.usconstitution.net/xconst_A4Sec4.html) accessed 11/27/19.

Utah Code, Title 20A, Chapter 7, Section 202 and Section 204.1.

[https://le.utah.gov/xcode/Title20A/Chapter7/20A-7-P2.html?v=C20A-7-P2\\_1800010118000101](https://le.utah.gov/xcode/Title20A/Chapter7/20A-7-P2.html?v=C20A-7-P2_1800010118000101) accessed 1/8/20.

Washington State. (n.d.). Revised Code of Washington. RCWs [Title 29A](#) > Chapter 29A.32 > Section 29A.32.060. <https://app.leg.wa.gov/RCW/default.aspx?cite=29A.32.060> accessed 10/4/19.

WERU-FM. (2019, Apr 19). Citizen Initiatives: The Devil's in the Details. Podcast moderated by Ann Luther of LWVME with Michael Franz of Bowdoin College and Joshua Dyck of University of Massachusetts at Lowell as guest speakers. <https://archives.weru.org/democracy-forum/2019/04/democracy-forum-4-19-19-citizen-initiatives-the-devils-in-the-details/> accessed 1.8.20.

Wesleyan Media Project. (n.d.). Wesleyan Media Project Website. <https://mediaproject.wesleyan.edu/> accessed 12/2/19.

Williams, Timothy. (2018, Oct 15). First Came a Flood of Ballot Measures From Voters. Then Politicians Pushed Back. *New York Times*. <https://www.nytimes.com/2018/10/15/us/referendum-initiative-legislature-dakota.html> accessed 11/15/19.

Wilson, Reid. (2019, Mar 17). GOP legislators clamping down on voter initiatives. *The Hill*. <https://thehill.com/homenews/campaign/434309-gop-legislators-clamp-down-on-voter-initiatives> .