

BALLOTWATCH

Overview

- November: 132 propositions in 37 states, including 28 initiatives, 2 referendums, and 97 legislative measures.
- Most active states: Alabama 11; Colorado 11, Arizona 10, Louisiana 8.
- Hot issues: abortion, marijuana and drugs, elections and voting,
- Bond issues: 4 propositions totaling \$5.0 billion
- Pre-November: 5 propositions in 4 states, including 2 initiatives and 1 referendum.
- For the year: 140 propositions in 38 states, including 28 initiatives and 2 referendums. Most for the year: Alabama 12, Louisiana 11, Colorado 11

IRI

Initiative & Referendum Institute

University of Southern California
Gould School of Law
Los Angeles CA 90089-0071
Phone: 213.740.9690

www.iandrinstute.org

USC University of
Southern California

ELECTION 2022 PREVIEW

On November 8, voters in 37 states will decide 132 statewide ballot propositions. Ballot proposition activity continues to be muted in the wake of the COVID epidemic, with overall activity down about 25% from the pre-COVID average, and the number of citizen-initiated at a record low for an even-numbered year in the 21 century.

Overall Trends

The 132 propositions in November is up slightly from 2020, when only 122 propositions were on the ballot, the record-low for November in an even-numbered year in the 21 century. By way of comparison, before COVID the country averaged 171 propositions in even-numbered Novembers, so this year's total is about 25% below normal.

“Proposition” or “measure” is an umbrella term for a law that comes to a vote of the people. Under this umbrella are several variants, the highest profile of which are *initiatives*, laws proposed by citizen petition. Most of the decline in proposition activity this year is due to a decline in the number of initiatives, almost surely a trailing effect of COVID, which has made it difficult for petitioners to collect signatures in public places. There are only 28 initiatives this November, a record low for even-numbered Novembers in the 21st century, about 50% below the average pre-COVID number. There were 37 initiatives in November 2020. For more information on initiative trends, see *IRI Report on Initiative Use (1904-2021)*.

The most common type of proposition are those placed on the ballot by legislatures, often called *legislative measures* or *legislative propositions*. There are 97 legislative measures on the ballot in November, up from 76 in 2020.

A relatively rare type of proposition is the *referendum* (sometimes *popular referendum* or *veto referendum*), in which citizens challenge an act of the legislature by petition. There are 2 veto referendums in November.

In addition to measures on the ballot in November, four states voted on propositions earlier in the year. The most notable of these was in Kansas, where voters rejected a proposed amendment that would have declared that the state constitution did not contain a right to abortion. One state is voting on propositions in December.

For additional information on ballot measures, particularly updates of individual state ballots, see ballotpedia.org and updates on ballotwatch.org and iandrinstute.org.

Abortion

Abortion emerged as a hot issue in the wake of the U.S. Supreme Court's *Dobbs* decision in June 2022 that reversed *Roe v. Wade* and effectively turned over abortion policy to the states. Legislatures in the states have responded in different ways, some by proposing constitutional amendments that would ease the path toward tougher limits on abortion, and others proposing new constitutional protections for abortion rights. Because the *Dobbs* decision was issued in June and it takes time to collect signatures, initiatives have come into play in only one state so far (Michigan), but we can expect to see activists on both sides try to qualify them in the future, especially if legislatures stray too far away from citizen preferences on the issue. Opinion polls show that most American are “centrists” on the issue, in the sense that they want abortion to be legal in the early stages of pregnancy, but are



MULTI-STATE ISSUES & PROPS TO WATCH

open to limits once the fetus is viable. This year, five states have voted or will vote on abortion-related laws, spanning the ideological spectrum:

- **Kansas** led the way in August with an amendment that would have declared that the state constitution did not contain a right to abortion. In itself, this would not have changed law in the state, but it was seen as a way to prevent judges from interfering with future lawmaking to ban abortion. Voters soundly rejected the proposal, with 59% against, reinforcing the view that most citizens do not want to move to an extreme position on the issue.
- **California, Michigan, and Vermont** have proposals from the other end of spectrum, adding constitutional language prohibiting the state from interfering with reproductive decisions. Michigan's and Vermont's amendments allow limits on abortion once the fetus is viable. California's amendment contains no exceptions, which seemingly would prohibit state laws that limit abortion in any way, even once the fetus is viable. This goes farther in providing abortion rights than surveys indicate the public favors, but opinion polls have the proposition passing at this point.
- **Kentucky's** Amendment 2 declares that the state constitution does not contain a right to abortion or require public funding of abortion, in key respects similar to the rejected Kansas amendment.
- **Montana** voters will decide a statute that would require health providers to take action to preserve the life of an infant born alive during an abortion procedure.

Election Systems and Voting

Several states will be deciding ballot measures related to voting, elections, and campaigns. Some of these proposals seek to institutionalize procedures that were utilized during the COVID pandemic, such as absentee voting.

- **Connecticut** voters will decide a proposal allowing in-person voting before the election.
- **Michigan's** Proposal 22-2, an initiative, institutes several reforms, including allowing nine days of early voting, publicly funding of absentee ballots, removing a voter ID requirement, allowing permanent absentee voting, and requiring ballot drop boxes.
- **Ohio's** Issue 2 prohibits local governments from allowing non-citizens to vote.
- **Arizona's** Prop 309 increases voter ID requirements for absentee voting, and **Nebraska's** Initiative Measure 42 requires a photo ID to vote.
- **Nevada's** Question 3 creates a top-five primary system and ranked-choice voting for federal and state elections.
- **Arizona's** Prop 211, an initiative, requires disclosure of the "original source" of funding for independent campaign expenditures.

Initiatives and Referendums

The ballot measure process itself is on the ballot in several states, as legislatures try to curtail direct lawmaking by citizens. Legislative hostility to direct democracy has a long and bipartisan history as sitting government officials seek to prevent citizens from taking independent action.

- **South Dakota** voters in June decisively rejected (67% against) a legislative proposal to raise the threshold for passage from 50% to 60% for of tax and spending ballot measures.
- **Arizona** voters will decide three constitutional amendments proposed by the legislature. Prop 128 allows the legislature to amend successful initiatives if any portion is invalidated by a court. Prop 129 requires initiatives to embrace only a single subject, a requirement that often leads to judges removing measures from the ballot. Prop 132 requires 60% approval for initiatives and referendums to pass.
- **Arkansas' Issue 2** is a legislative proposal to increase the approval rate for constitutional amendments from 50% to 60%.
- **Colorado's** Proposition GG, also a legislative proposal, requires ballot titles and descriptions to show fiscal impact by income brackets.

Hot topics: abortion, elections and voting, initiatives and referendums

STATE-BY-STATE LIST

PROPOSITIONS ON THE BALLOT IN NOVEMBER

The remainder of this report contains a list of state-level propositions for 2022. An “initiative” is a citizen-sponsored law placed on the ballot by petition. A “referendum” is a proposal to repeal an existing law placed on the ballot by petition. “Legislative” measures were placed on the ballot by the legislature.

Alabama (see also Pre-November proposition)

All measures are constitutional amendments placed on the ballot by the legislature.

- *Constitution of Alabama of 2022.* Ratifies recompiled constitution.
- *Statewide Amendment 1. Bail.* Expands list of crimes for which bail can be denied.
- *Statewide Amendment 2. Internet.* Allows local governments to allocate federal funds for broadband infrastructure.
- *Statewide Amendment 3. Death sentences.* Requires governor to notify victim’s family before commuting death sentence.
- *Statewide Amendment 4. Election laws.* Requires election laws to be approved at least 6 months before going into effect.
- *Statewide Amendment 5. Constitution.* Removes obsolete language.
- *Statewide Amendment 6. City spending.* Allows certain cities to use tax revenue to pay for capital improvements.
- *Statewide Amendment 7. Bonds.* Removes requirement that voters approve for certain bonds.
- *Statewide Amendment 8. Shelby County.* Allows county to regulate private sewage plants.
- *Statewide Amendment 9. Lake View town and Jefferson County.* Allows regulation of private sewage plants.
- *Statewide Amendment 10. Constitution.* Incorporates recent amendments into new constitution if constitution is approved.

Alaska

- *Constitutional Convention Question.* Calls a constitutional convention; required every 10 years..

Arizona

Props 128-132 are legislative amendments. Props 209 and 211 are initiative amendments. Props 308-310 are legislative statutes..

- *Prop 128. I&R.* Allows legislature to amend initiatives and referendums if they are declared partially unconstitutional.
- *Prop 129. Initiatives.* Requires initiatives to embrace a single subject.
- *Prop 130. Property taxes.* Consolidates exemptions in a single section of constitution, allows exemption for veterans with disabilities.
- *Prop 131. Creates office of Lieutenant Governor.*
- *Prop 132. I&R approval.* Requires 60% approval for initiatives and referendums to pass.
- *Prop 209. Interest rates.* Reduces maximum interest rate on medical debt from 10% to 3%.
- *Prop 211. Campaign spending.* Requires large independent expenditures to disclose the “original sources” of money.
- *Prop 308. In-state college tuition.* Allows non-citizens to pay in-state tuition rates.
- *Prop 309. Voter ID.* Increases ID requirements for mail-in ballots.
- *Prop 310. Increases sales tax 0.1%, with revenue for fire safety districts.*

Alabama - Arizona

STATE-BY-STATE LIST (CONTINUED)

Arkansas

Issues 1-3 are legislative amendments. Issue 4 is an initiative amendment.

- *Issue 1. Provides for extraordinary sessions of legislature.*
- *Issue 2. I&R. Requires 60% approval for initiatives and referendums.*
- *Issue 3. Provides for religious freedom.*
- *Issue 4. Legalizes marijuana.*

California

Prop 1 is a legislative constitutional amendment. Props 26-27 are initiatives that amend both the constitution and statutes. Props 28-30 are initiative statutes. Prop 31 is a veto referendum.

- *Prop 1. Abortion.* Prohibits all government restrictions on abortion.
- *Prop 26. Sports betting.* Legalizes sports betting at Indian casinos and existing race tracks.
- *Prop 27. Online betting.* Legalizes online sports betting.
- *Prop 28. Arts and music.* Dedicates 1% of state education revenue to arts and music.
- *Prop 29. Kidney dialysis clinics.* Requires licensed medical professional on site.
- *Prop 30. Income tax for green cars.* Increases income tax by 1.75% on incomes over \$2 million, dedicates money to zero-emission vehicles and charging stations.
- *Prop 31. Flavored tobacco.* To approve or repeal a law banning flavored tobacco products.

Colorado

Amendments D, E, F are legislative amendments. Props FF and GG are legislative statutes. The other measures are initiative statutes.

- *Amendment D. Judges.* Transfers certain judges from one district to another district.
- *Amendment E. Property tax.* Extends veteran exemption to surviving spouse.
- *Amendment F. Charitable gambling.* Makes organizations eligible after 3 instead of 5 years.
- *Prop FF. Income tax .* Reduces deductions, dedicates revenue to school meals.
- *Prop GG. Ballot measures.* Requires titles and impact statement to indicate effect by income bracket.
- *Prop 121. Reduces personal and corporate income tax rates.*
- *Prop 122. Income tax rate.* Reduces from 4.65% to 4.55%.
- *Prop 123. Legalizes hallucinogenic mushrooms.*
- *Prop 124. Liquor licenses.* Allows stores to obtain more licenses.
- *Prop 125. Wine sales.* Allows retailers with beer licenses to sell wine.
- *Prop 126. Allows delivery of alcohol to customers.*

Connecticut

- *Ballot Question. Legislative proposal to allow in-person early voting.*

Florida

All amendments are legislative proposals.

- *Amendment 1. Property tax exemption for improvements to resist flooding.*
- *Amendment 2. Abolishes Constitutional Revision Commission.*
- *Amendment 3. Property tax exemption for teachers, police, and others.*

Arkansas - Florida

STATE-BY-STATE LIST (CONTINUED)

Georgia

All proposals are from the legislature. "Referendum Questions" are statutes.

- *Amendment 1. Public official compensation.* Suspends compensation upon felony indictment.
- *Amendment 2. Local tax relief for disaster areas.*
- *Referendum Question A. Property taxes.* Extends exemption for agricultural equipment to mergers of family farms.
- *Referendum Question B. Property taxes.* Exempts timber equipment.

Idaho

Both proposals were placed on the ballot by the legislature.

- *Amendment SJR 102. Special session.* Allows 60% of legislators to call special session.
- *Idaho Advisory Question. Taxes.* To recommend (or not) a tax rebate, flat income tax, and more education spending.

Illinois

- *Amendment 1. Collective bargaining.* Legislative proposals that creates constitutional right to collective bargaining.

Iowa

- *Right to Keep and Bear Arms Amendment.* Legislative proposal that declares right.

Kansas (see also pre-November proposition)

Both proposals are legislative constitutional amendments.

- *Question 1. Agency rules.* Allows legislature to suspend.
- *Question 2. County sheriffs.* Requires their election, and allows their recall.

Kentucky

Both proposals are constitutional amendments from the legislature.

- *Amendment 1. Legislative sessions.* Allows legislature to call.
- *Amendment 2. Abortion.* Declares that state constitution does not contain right to abortion.

Louisiana

All eight propositions are constitutional amendments placed on the ballot by the legislature.

- *Proposed Amendment 1. Investment of public funds.* Allows more investment in stocks.
- *Proposed Amendment 2. Property tax exemption for disabled veterans and spouses.*
- *Proposed Amendment 3. Civil service employees.* Allows civil service workers to support election of their family members.
- *Proposed Amendment 4. Water charges.* Allows local governments to waive charges due to water damage not caused by customer.
- *Proposed Amendment 5. Property taxes.* Allows local governments to increase rates temporarily.
- *Proposed Amendment 6. Property taxes.* Limits rate increase in Orleans parish.
- *Proposed Amendment 7. Slavery.* States that slavery is prohibited.
- *Proposed Amendment 8. Property taxes.* Removes requirement that disabled persons certify annually to receive exemption.

Georgia - Louisiana

STATE-BY-STATE LIST (CONTINUED)

Maryland

All five propositions are legislative constitutional amendments.

- *Question 1. Renames state appellate courts.*
- *Question 2. Legislators.* Requires primary place of residence to be their district.
- *Question 3. Trials.* Increases controversy amount for non-jury trials.
- *Question 4. Legalizes marijuana.*
- *Question 5. Replaces judges in Howard County Orphans' Court.*

Massachusetts

Question 1 is a legislative amendment. Questions 2 and 3 are initiative statutes. Question 4 is a veto referendum.

- *Question 1. Income tax.* 4% surcharge on income over \$1 million, with revenue for education.
- *Question 2. Dental insurance.* Requires refunds on "excessive" premiums.
- *Question 3. Liquor sales.* Allows stores to hold more liquor licenses.
- *Question 4. Illegal immigrants.* To approve or repeal a law allowing drivers licenses for illegal immigrants.

Michigan

All proposals are constitutional amendments, the first from the legislature, other two initiatives.

- *Proposal 22-1. Term limits.* Allows legislators to serve longer in one house but less time overall.
- *Proposal 22-2. Voting.* Increases early voting, removes ID requirement, allows permanent absentee voters, requires ballot drop boxes.
- *Proposal 22-3. Abortion.* Establishes right to reproductive freedom; allows limits if fetus is viable.

Missouri

Amendments 1, 4, 5 are legislative proposals. Amendment 3 is an initiative. The constitutional convention question is required by the constitution every 20 years.

- *Amendment 1. Investment of public funds.* Allows state to invest in high-grade municipal securities.
- *Amendment 3. Legalizes marijuana.*
- *Amendment 4. Police funding.* Allows state to establish minimum funding levels.
- *Amendment 5. State national guard.* Makes it a separate department.
- *Constitutional Convention Question.* Calls a constitutional convention.

Montana

C-48 is an amendment, I-131 is a statute, both were proposed by the legislature.

- *C-48. Privacy.* Provides search and seizure protection to electronic data.
- *LR-131. Abortion.* Requires health care providers to help infants born alive during abortion procedure.

Maryland - Montana

STATE-BY-STATE LIST (CONTINUED)

Nebraska

Amendment 1 is a legislative proposal. Initiative 432 is an amendment. Initiative 433 is a statute.

- *Proposed Amendment 1. Airports.* Allows local governments to expand commercial service at their airports.
- *Initiative Measure 432. Voting.* Requires photo ID.
- *Initiative Measure 433. Increases minimum wage.*

Nevada

All three questions are constitutional amendments, the first two from the legislature and the last from an initiative.

- *Question 1. Civil rights.* Prohibits discrimination on the basis of gender.
- *Question 2. Minimum wage.* Increases minimum wage, removes cost of living adjustments.
- *Question 3. Primary elections.* Establishes top-five primary system with ranked-choice voting. (First of two required votes.)

New Hampshire

The amendment was proposed by the legislature. Constitution requires the question every decade.

- *Proposed Amendment. Abolishes office of register of probate,*
- *Constitutional Convention Question. Calls a constitutional convention.*

New Mexico

All proposals were placed on the ballot by the legislature.

- *Constitutional Amendment 1. Land grant funds.* Allows additional disbursements for education.
- *Constitutional Amendment 2. Residential utilities.* Allows use of state funds to provide internet, energy, and water services.
- *Constitutional Amendment 3. Interim judges.* Requires at least one year between appointment of interim judge and replacement election.
- *Bond Question 1. \$24.47 million bond issue for senior citizen facilities.*
- *Bond Question 2. \$19.266 million bond issue for libraries.*
- *Bond Question 3. \$215.986 million bond issue for higher education and schools.*

New York

- *Proposal 1. \$4.2 billion bond issue for environment and energy projects (legislative).*

North Dakota

Both proposals are initiatives.

- *Constitutional Measure 1. Limits governor and legislators to two terms.*
- *Statutory Measure 2. Legalizes marijuana.*

Ohio

Both proposals are legislative constitutional amendments.

- *Issue 1. Bail.* Requires judges to consider public safety and previous record when setting bail.
- *Issue 2. Voting.* Prohibits voting by noncitizens.

Nebraska - Ohio

STATE-BY-STATE LIST (CONTINUED)

Oregon

Measures 111 and 112 are legislative amendments. Measure 113 is an initiative amendment. Measure 114 is an initiative statute.

- *Measure 111. Right to health care.* Requires state to provide affordable health care.
- *Measure 112. Slavery.* Removes obsolete constitutional language.
- *Measure 113. Legislator absence.* Prevent legislators with many unexcused absences from running for re-election.
- *Measure 114. Guns.* Requires background check, safety training, and permit fee to purchase.

Rhode Island

All three bond measures were placed on the ballot by the legislature.

- *Question 1. \$100 million bonds for state university facilities.*
- *Question 2. \$250 million bonds for public school facilities.*
- *Question 3. \$50 million bonds for recreational and environmental projects.*

South Carolina

Both proposals were placed on the ballot by the legislature.

- *Amendment 1. Increases general reserve fund from 5% to 7% of revenue.*
- *Amendment 2. Increases capital reserve fund from 2% to 3% of revenue.*

South Dakota (see also pre-November proposition)

Both propositions are initiatives. Measure 27 is a statute.

- *Initiated Measure 27. Legalizes marijuana.*
- *Constitutional Amendment D. Medicare.* Requires state to participate in Obamacare program.

Tennessee

All four proposals were placed on the ballot by the legislature.

- *Amendment 1. Right to work.* Prohibits denial of employment due to nonunion membership.
- *Amendment 2. Governor powers.* Provides for exercise of governor's powers if incapacitated.
- *Amendment 3. Slavery.* Removes obsolete language.
- *Amendment 4. Allows ministers and priests to serve in legislature.*

Texas (see pre-November propositions)

Utah

- *Emergency Sessions Appropriation Limits Amendment.* Increases limit on emergency session appropriation from 1% to 5% of previous budget (legislative proposal).

Vermont

Both proposals are constitutional amendments placed on the ballot by the legislature.

- *Proposal 2. Explicitly prohibits slavery.*
- *Proposal 5. Abortion.* Provides a right to "reproductive autonomy;" allows restrictions if compelling state interest (fetal viability).

Oregon - Vermont

STATE-BY-STATE LIST (CONTINUED)

Washington

These advisory votes are required by the constitution and are not binding.

- *Advisory Vote 39. Maintain or repeal a tax increase on airport fuel.*
- *Advisory Vote 40. Maintain or repeal new tax on transportation network companies.*

West Virginia

All four proposals were placed on the ballot by the legislature.

- *Amendment 1. Impeachment.* Prohibits judges from interfering in proceedings.
- *Amendment 2. Property taxes.* Allows exemption for business vehicles and property.
- *Amendment 3. Allows churches to incorporate.*
- *Amendment 4. Board of education.* Allows legislature to overrule board rules.

Wyoming

Both proposals were placed on the ballot by the legislature.

- *Constitutional Amendment A. Investment of public funds.* Allows local governments to invest in stocks.
- *Constitutional Amendment B. Judges.* Increases mandatory retirement age.

Washington - Wyoming

PRE- AND POST-NOVEMBER ELECTIONS

Alabama (May 24)

- *Amendment 1. \$85 M bonds for state parks and historical sites (legislative).* APPROVED 77-23

Kansas (August 2)

- *Constitutional Amendment. Abortion.* Declares that state constitution does not include a right to abortion. FAILED 41-49

Louisiana (December 10)

All three propositions are legislative constitutional amendments.

- *Proposed Amendment 1. Prohibits voting by noncitizens.*
- *Proposed Amendment 2. Requires senate confirmation of governor's nominees to civil service commission.*
- *Proposed Amendment 3. Requires senate confirmation of governor's nominees to police commission.*

South Dakota (June 7)

- *Constitutional Amendment C. Requires 60% approval for constitutional amendments (legislative proposal).* FAILED 33-67

Texas (May 7)

Both propositions were constitutional amendments from the legislature.

- *Prop 1. Property tax. Allows legislature to reduce maximum tax on elderly.* APPROVED 87-13
- *Prop 2. Property tax. Increases exemption for public school purposes.* APPROVED 85-15

* * *

Please direct media inquiries to Leslie Ridgeway, Director of Communications and Media Relations, (213) 740-9690 (office), (619) 252-4984 (mobile), lrldgeway@law.usc.edu or John Matsusaka, Executive Director, matsusak@usc.edu.

Before November: 5 propositions in 4 states.

After November: 3 propositions in 1 state.