



Democracy-Related Ballot Measures in 2022 – and A Look Ahead

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In 2022, voters in 38 states weighed in on 140 statewide ballot measures. Many of these ballot initiatives received significant public attention, as they addressed a range of hot-button issues like abortion rights and marijuana. Yet democracy was on the ballot as well: many of the 2022 ballot campaigns involved important questions affecting voting, elections, governmental powers, and direct democracy itself. In particular, 12 of the democracy-related ballot measures addressed how to vote, who can vote, and how our governing documents can be changed. This report recaps these 12 ballot measures, exploring the legal and political context in which they were proposed as well as the arguments offered for and against them. The report then looks ahead to flag democracy-related measures that may appear on the ballot in 2023.

Voting Changes on the Ballot

Several of the year's statewide ballot measures concerned voting practices. These measures presented voters with important questions about how to vote, when to vote, and who can vote. Most of these were put on the ballot by state legislatures, including those in Alabama, Arizona, Connecticut, Louisiana, and Ohio. Others were voter-initiated proposals, like measures in Michigan, Nebraska, and Nevada, and these tended to be more ambitious in scope.

Michigan voters approved robust constitutional protections for their voting rights.

In Michigan, voters approved a citizen-initiated amendment to their state constitution that greatly expanded protections for voting rights: it established perhaps the most robust right to vote of any state constitution.¹ Submitted as [Proposal 2](#) at the general election, it was [approved](#) by a 60-40 margin.

Proposal 2 built off the success of an initiated constitutional amendment approved by Michigan voters in 2018 ([Proposal 3](#)). This 2018 measure enshrined several voting rights into the state constitution. Among other provisions, it created a right to be automatically registered to vote when interacting with the state regarding a driver's license or state ID (people can opt out of automatic voter registration, but they no longer have to affirmatively opt in to register as they did under prior law), a right to register to vote at the polls on election day (state law previously

required voters to be registered 30 days before the election), a right to no-excuse absentee voting (state law previously limited who could vote by absentee ballot), and a right to have election results audited. It was overwhelmingly approved by a 67-33 margin at the 2018 general election.

Proposal 2 expanded the Michigan Constitution's protections for voting rights even further. It now expressly recognizes the right to vote as "fundamental" and prohibits virtually any action that has the intent or effect of "denying, abridging, interfering with, or unreasonably burdening" this fundamental right. It also establishes a strong enforcement mechanism, creating a cause of action in state court for "declaratory, injunctive, and/or monetary relief," and allowing for the recovery of a plaintiff's attorney's fees.

In addition to this robust right to vote, Proposal 2 contained several other significant voting provisions. The measure enshrined the state's existing voter ID requirements into the state constitution, including a right for voters to execute an affidavit attesting to their identity in lieu of presenting a photo ID. It established a minimum of nine days of early, in-person voting (state law previously provided for none). It contained several provisions to expand access to the state's no-excuse absentee voting framework established by the 2018 measure, including a right for voters to join a permanent absentee voting list, a requirement for the state to fund prepaid postage for absentee ballot applications and ballots, and a minimum number of absentee ballot drop boxes. The measure increased the amount of time for military and overseas voters' ballots to be delivered to elections officials; these ballots previously had to arrive by election day, but Proposal 2 moved the deadline to the sixth day after the election. And it addressed [concerns](#) that Michigan's local or state elections officials might refuse to certify the results of an election by specifying that the officials have a "ministerial, clerical, nondiscretionary duty" to certify election results based solely on the results of the elections—a principle that Michigan courts had previously acknowledged but that is now in the state constitution, too.

Given the expansive nature of Proposal 2—and Michigan's status as a quintessential swing state—the campaign was unsurprisingly contentious. There was a [legal fight](#) over whether elections officials should even certify the measure for placement on the ballot. Opponents had alleged that the underlying initiative petition had not complied with a state law requirement to properly identify every existing state constitutional provision that would be "abrogated" by the proposal if approved. The matter had to be resolved by the Michigan Supreme Court, which ultimately concluded in a [5-2 decision](#) that the petition complied with state law and ordered the measure on the ballot.

Once the measure was certified on the ballot as Proposal 2, the campaign focused on the merits of the individual voting policies and the larger question of whether it was prudent to

place the policies in the state constitution. [Many opponents criticized](#) the voter ID component, arguing that Proposal 2 would make it harder to impose stricter forms of voter ID in the future. Others acknowledged that some of the policies might have merit but [argued](#) that it would be better to implement the policies as legislation so that they could be more easily fixed, if needed. In response, supporters [argued](#) that it was necessary to put the rights into the state constitution to prevent the state legislature from curtailing any of the provisions in the future; as evidence for why the legislature could not be trusted, supporters [pointed to](#) legislative attempts to undermine the 2018 ballot measure after voters adopted it.

Proposal 2 remained contentious even after the election. A group of conservative activists [requested a partial recount](#) of the election results for Proposal 2 and another statewide ballot measure. Notably, there were not enough votes in the precincts they requested for a recount to change the outcome of the election, prompting accusations from one election official that the activists wanted to use the recount for a “[fishing expedition](#)” to investigate other election procedures. But even though the recount could not change the outcome of the election, state law [required](#) it to move forward. The process took about two weeks, and in the end, the [recount](#) added 14 “yes” votes and 20 “no” votes to the totals for Proposal 2.

Voters in Nevada approved a citizen-initiated measure to overhaul the state’s elections system, but the measure will have to earn approval at a second general election for passage.

In Nevada, voters narrowly approved a citizen-initiated amendment to the state constitution to establish open, top-five primary elections and ranked-choice voting for general elections. Submitted as [Question 3](#) at the general election, it was [approved](#) by a 53-47 margin. But due to a unique requirement in the Nevada Constitution that requires initiated amendments to receive approval at *two* successive general elections for passage,² the measure will be submitted to the voters again at the 2024 general election.

Under current state law, Nevada’s primary elections are “[closed](#)” in that only registered voters of a major political party may vote in a primary election to nominate their party’s candidates for the general election. And in a general election, the candidate who receives a plurality of votes (whether or not it is a majority) is the winner of the contest.

The proposed amendment would overhaul the state’s primary and general elections for U.S. Senate, U.S. Representatives, governor, lieutenant governor, secretary of state, state treasurer, state controller, attorney general, and state legislators. If approved again in 2024, all candidates and voters would participate in a single primary election, regardless of their affiliation or non-affiliation, and the top five finishers would advance to the general election. At the general election, voters would be able to rank the candidates in order of preference from

first to last. A general election candidate that receives first-choice votes of more than 50% would be declared winner. But if no candidate is the first choice of more than 50% of the voters in the general election, then the candidate with the fewest votes would be eliminated, and each voter who had ranked the eliminated candidate as their first choice would then have their vote transferred to their next highest choice. This process would repeat until one candidate has more than 50% support. Similar voter-proposed initiatives were approved in Maine in 2016 ([Question 5](#)) and Alaska in 2020 ([Measure 2](#)), and ranked-choice voting has also been implemented in some big cities, like [New York City](#), [San Francisco](#), and [Minneapolis](#).

Several [arguments](#) have been made in support of the proposed change. (Nevada publishes an official guide to proposed ballot measures, including leading arguments for and against proposed measures.) Proponents contend that the closed primary system unfairly excludes voters who do not affiliate with either major political party, leaving a small minority to determine the general election candidates. They contend that this often results in more extreme candidates in the general election. Proponents also contend that the ranked-choice general election would allow voters to rank the candidates who best represent their positions, rather than having to choose between the “lesser of two evils,” and that such a system would result in the election of candidates who enjoy the broadest public support.

Opponents of the proposal, who interestingly [included](#) some of Nevada’s top Republicans *and* Democrats, offered several [arguments](#) in response. Their primary criticism is that the proposal is confusing. They contend that voters might not understand that they can rank more than one candidate, and that this could result in votes not counting after the first tabulation round. They also liken the proposal to California’s open (though top-*two*) primary election system, which they contend results in primary elections that are dominated by a single political party and shut out other parties’ candidates from appearing on the general election ballot. And echoing common critiques of initiative campaigns, opponents argue that the proposal is funded by “out-of-state millionaires and special interest groups,” and they have expressed concerns that enshrining the changes in the state constitution would make them difficult to repeal if the proposed system does not work.

Nevadans can expect to continue to hear these arguments over the next two years as the proposal faces its second election in November 2024.

Connecticut voters authorized their state legislature to provide for early, in-person voting.

In Connecticut, voters approved a legislatively referred amendment to their state constitution to allow the Connecticut General Assembly to provide for early, in-person voting. Submitted as [Question 1](#) at the general election, it was [approved](#) by a 60.5-39.5 margin.

Prior to the approval of Question 1, Connecticut was one of only [four states](#) without any form of early, in-person voting. Although there was long support in the Connecticut General Assembly to provide for such voting, legislators were effectively prohibited from adopting it through legislation because of language in the state constitution that requires voters to “appear” in person at their polling place to cast a ballot.³ The same constitutional provision also limits the use of absentee ballot to those who cannot “appear” due to sickness, religious reasons, or to those who will be out of town. The General Assembly had even [previously proposed](#) an amendment to the state constitution to allow for both early, in-person voting and no-excuse absentee voting, but voters rejected it in 2014 by a 52-48 margin. (Connecticut does not allow citizens to propose constitutional amendments through an initiative process,⁴ so this was not an option either.)

Proponents of Question 1 [argued](#) that the state’s lack of early voting and limited absentee voting options was unfair to voters who struggled to vote on election day due to their job, a lack of transportation, or a lack of childcare (among other reasons). Others also [connected](#) the policies to the problem of long lines at polling locations, especially in communities with higher concentrations of minority voters. Opponents, however, [argued](#) that the measure did not offer any specifics—it leaves it to the state legislature to determine the time and manner of early, in-person voting—and should have done more to address voter fraud.

The state legislature will still need to enact legislation to implement early, in-person voting before it is a reality in Connecticut. One potential obstacle is a [lawsuit](#) that seeks to void the amendment. A Connecticut voter filed a [complaint](#) in state court on the day before the election that alleged that the General Assembly did not follow the proper procedure to put the measure on the ballot. Without addressing the merits of the lawsuit, a trial court judge [dismissed](#) the action on December 15, 2022, and it remains to be seen whether the plaintiff will appeal the ruling or if someone with proper standing will attempt to litigate the same claim.

Strict voter ID requirements saw mixed results in Nebraska, Arizona, and Michigan.

There were mixed results on ballot measures related to voter ID requirements in 2022—a slight change from the past decade-plus in which ballot measures seeking to impose strict ID requirements had largely been approved. Indeed, since 2010, stricter voter ID requirements have been approved by voters in Oklahoma (2010, [State Question 746](#)), Mississippi (2011, [Initiative Measure 27](#)), [Missouri](#) (2016, [Amendment 6](#)), North Carolina (2018, [“Require ID to Vote”](#)),⁵ and Arkansas (2018, [Issue 2](#)). During that same time, voters in only one state, Minnesota (2012, [Amendment 2](#)), rejected a strict voter ID requirement. In 2022, voters approved a voter ID requirement in Nebraska but rejected a similar requirement in Arizona,

while the previously discussed voting rights measure in Michigan effectively prevents the state from imposing a strict voter ID requirement in the future.

Nebraska

In Nebraska, voters overwhelmingly approved a citizen-initiated amendment to Nebraska Constitution to require voters to “present a valid photographic identification in a manner specified by the Legislature.” Submitted as [Initiative 432](#) at the general election, it was [approved](#) 65.5-34.5.

Prior to this change, Nebraska was one of [16 states](#) not to require voters to provide any form of identification to vote. Strict voter ID requirements [enjoyed popular support](#) in the conservative Nebraska Legislature, but opponents had filibustered each attempt to enact such requirements over the years. Eventually, strict voter ID proponents turned to the state’s initiative process as a way to get around the filibusters.

Echoing the voter ID debates from all over the country, supporters of Initiative 432 [argued](#) that photo ID requirements are necessary to protect the integrity of the state’s elections. They do [admit](#), however, that there is no evidence of voter impersonation occurring in Nebraska.⁶ Opponents [argued](#) that a photo ID requirement would pose a barrier to voting that will disproportionately affect minority rural voters, and that given the lack of voter impersonation in the state, there was no need for a change that could leave a significant number of people unable to vote. One [analysis](#) estimated that the number of Nebraska voters without the kind of ID that might be required could be in the range of 54,000-70,000 Nebraskans.

Because Initiative 432 passed, it will now be up to the Nebraska Legislature to determine what types of photo ID will be acceptable.

Arizona

While voters in Nebraska overwhelmingly approved a voter ID requirement, voters in Arizona narrowly rejected a legislatively referred state statute that would have imposed stricter voter ID requirements. Submitted as [Proposition 309](#) at the general election, it was [rejected](#) by a 50.4-49.6 margin.

Under existing Arizona law, if in-person voters do not have a photo ID that contains their name and address, then they can present two [forms of alternative, non-photo ID](#), like a utility bill or a bank statement. And for [mail-in voting](#), which is now the [most used method of voting in Arizona](#), voters verify their identity by signing their ballot under penalty of perjury; elections officials later check the ballot against the signature on the voter’s registration record.

Under Proposition 309, in-person voters would have needed a valid photo ID that displays an address that matches the voter’s address on the voter registration rolls; it would have eliminated

the alternative, non-photo ID options. And mail-in voters would have received an affidavit to complete with their ballot that would have required their driver's license number or the last four digits of their Social Security number, their date of birth, and their signature. Failure to return or fully complete the affidavit would have invalidated the voter's ballot.

The proponents and opponents of Proposition 309 made familiar arguments, similar to those in Nebraska. Supporters [argued](#) that the measure was necessary to improve election security and confidence in elections. Opponents [argued](#) that the measure would likely disenfranchise the state's Indigenous voters, pointing to the state's long history of discrimination against Native voters and raising the issue that many tribal ID cards lacked photos or street-level addresses. Other opponents pointed to the state's long history of allowing no-excuse absentee voting and [said](#) that the state had never experienced large-scale voter fraud. Notably, 14 of the state's 15 county recorders, who are responsible for administering elections— and most of whom are Republicans—[opposed the measure](#), arguing that it would create extra steps for them and slow their vote count without improving security.

Interestingly, the proposed changes to the Arizona's voter ID laws *required* voter approval—the Arizona Legislature would not have been able to pass the stricter requirements on their own. This is because Arizona's existing voter ID requirement for in-person voting had been enacted as an initiated statute in 2004 ([Proposition 200](#)), and the Arizona Constitution limits the legislature's ability to amend initiated measures (in perpetuity) without seeking voter approval.⁷ Thus, any future attempts to eliminate the state's non-photo ID option will require voter approval.

Michigan

Last, although not a standalone voter ID measure like those in Nebraska and Arizona, it bears repeating that [Proposal 2](#) in Michigan contained language that will make it difficult for the state to impose strict voter ID requirements in the future. For in-person voting, it enshrined existing state law that allowed voters to either present a valid photo ID "issued by a federal, state, local, or tribal government or an educational institution" or execute an affidavit that verifies their identity. For absentee voting, it also enshrined the state practice of requiring voters to sign an affidavit of identity and having elections officials check the signature against the voter's registration records; officials are also required to provide voters with an "equitable opportunity" to correct any issues with the signature.

Voters in Ohio and Louisiana approved measures to prohibit non-citizens from voting in local elections.

Voters in Ohio and Louisiana overwhelmingly approved legislatively referred constitutional amendments that prohibit non-U.S. citizens from voting in state and local elections. The

measure in Ohio, which was submitted as [Issue 2](#) at the general election, was approved by a 77-23 margin, while the measure in Louisiana, which was submitted as [Amendment 1](#) at a December 10 special election, was approved by a 73-27 margin. In approving these measures, Ohio and Louisiana followed a trend of mostly conservative states approving measures to prohibit noncitizens from voting in local elections; voters in Alabama (2020, [Amendment 1](#)), Colorado (2020, [Amendment 76](#)), Florida (2020, [Amendment 1](#)), and North Dakota (2018, [Measure 2](#)) all approved similar ballot measures in the prior four years. In contrast, a small number of cities, including New York City and San Francisco, have recently [authorized resident non-U.S. citizens to vote in certain local elections](#).⁸

The proposals in Ohio and Louisiana were written similarly. Ohio's Issue 2 changed language in the state constitution that provided that "every" person who met prescribed qualifications—which already included U.S. citizenship—was entitled to vote at all elections in the state to instead provide that "only" those who meet the qualifications can vote at all elections in the state. It also added a sentence that provides: "No person who lacks these qualifications shall be permitted to vote at any state or local election held in this state." Louisiana's Amendment 1 amended the state constitution to include U.S. citizenship as a voter qualification—although the state constitution already required voters to be a "citizen of the state." It also added a sentence that provides: "No person who is not a citizen of the United States shall be allowed to register and vote in this state."

In Louisiana, Amendment 1's proponents expressed discomfort with the recent municipal extensions of the franchise to resident non-U.S. citizens. The legislative sponsor of Amendment 1 specifically [said](#) that the measure was needed to prevent cities and towns in Louisiana from following in New York City's footsteps. Amendment 1's opponents [expressed skepticism](#), contending that the state's constitution already required voters to be a "citizen of the state" and that the measure would create a false narrative that non-citizens were voting in Louisiana. However, the Louisiana Secretary of State, who supported the measure, [argued](#) that the state constitution was unclear on whether a non-U.S. citizen could nevertheless be a citizen of Louisiana and that the proposed measure would fill the "gap."

Similar arguments were made in Ohio, though they were more localized. A small town in the state had approved [a ballot measure in 2019](#) to allow its approximately 30 non-citizen residents to participate in municipal elections; town officials, who supported the measure, [said](#) they thought it was fair to allow non-citizen residents to vote in municipal elections because the non-citizens paid taxes and had children in the local schools like other residents. However, the measure never went into effect because the Ohio Secretary of State [ordered](#) local elections officials to not accept voter registration forms from any non-citizens. The Secretary claimed that the local ballot measure violated both the state and federal constitutions, and while the small town's leaders [disagreed](#), they chose not to spend money on a legal fight. And although

the Secretary of State had argued that the state constitution already prohibits non-citizens from registering to vote in local elections, he later called it a legal [gray area](#) and endorsed what became Issue 2 to expressly prohibit non-citizens from voting in local elections. He argued that allowing non-citizens to vote in local elections would “[cheapen the value of citizenship](#),” while opponents of the measure called it a purely political move that plays into the false theory that the 2020 presidential election was stolen. Another [criticism](#) was that the proposal might prohibit the state’s long practice of allowing 17-year-olds to vote in primary elections so long as they will turn 18 by the general election, though the Ohio Secretary of State said he did not think the measure would have any impact on this practice.

Alabama voters approved a measure to require election changes to be made six months before the general election.

Voters in Alabama approved a legislatively referred constitutional amendment that requires legislative changes for a general election to be made at least six months before the general election. Submitted as [Amendment 4](#) at the general election, it was overwhelmingly [approved](#) by an 80-20 margin.

Amendment 4’s legislative sponsor [explained](#) that the measure was intended to create an orderly process for elections by prohibiting election and voting changes just before the election. [Other reports](#), however, connected the measure to complaints from Republicans after the 2020 presidential election that pandemic-related changes in election procedures contributed to Donald Trump’s defeat. During the legislative debate, some legislators [expressed](#) skepticism of the measure, questioning why the legislature should foreclose its ability to respond to unexpected situations so far in advance. These concerns were echoed by [others](#) who said that natural disasters or even another pandemic might require emergency changes. In response, the legislative sponsor [said](#) that in emergency situations, the Governor would remain able to issue executive orders and that the proposal would not change anything in that respect.

Direct Democracy Restrictions on the Ballot

In addition to the voting changes highlighted above, there were also several proposals on the ballot in 2022 to limit the ability of the people to exercise their direct democracy powers to propose laws and constitutional amendments directly. These saw mixed results. Voters in South Dakota and Arkansas overwhelmingly rejected proposals to impose supermajority thresholds for passage of future ballot measures, while voters in Arizona narrowly approved a supermajority threshold proposal for future tax approvals as well as a proposal to limit future initiatives to a single subject.

South Dakota voters rejected a supermajority requirement that was intended to thwart a future initiative to expand Medicaid.

In South Dakota, voters overwhelmingly rejected a [measure](#) that would have required a 60% supermajority for passage of any future citizen-initiated or legislatively referred ballot measure that would have increased taxes or fees or that would have required the state to appropriate at least \$10 million in the first five fiscal years. Submitted as Constitutional Amendment C at the state's June 7 primary election,⁹ it was [rejected](#) by a 67-33 margin. This was notably the *second* supermajority proposal rejected by South Dakotans in recent years; a legislatively referred measure to require a 55% supermajority threshold for initiatives was rejected by a closer [54-46 margin](#) in 2018 ([Amendment X](#)).

Although Amendment C was framed as a measure to ensure broad support for future taxes, the proposal became a proxy for a planned initiative campaign to expand federal Medicaid eligibility that had aimed for submission at the November general election. As part of this, legislators submitted Amendment C at the June 7 primary election instead of the general election with [the intent](#) to have the supermajority requirement in place for the general election when the Medicaid expansion measure might be on the ballot. One of the [main messages](#) in *opposition* to Amendment C was that it would make Medicaid expansion more difficult in the future. After Amendment C failed, the Medicaid expansion initiative went on to be [approved](#) by a 56-44 margin—less than the proposed supermajority.

Arkansas voters rejected a supermajority requirement for any future constitutional amendments.

In Arkansas, voters overwhelmingly rejected a measure that would have required a 60% supermajority for passage of any future constitutional amendment (legislatively referred and voter-initiated) or voter-initiated state statute. Submitted as [Issue 2](#) at the general election, it was [rejected](#) by a 59-41 margin.

Issue 2 was one of several recent efforts by the Arkansas General Assembly to curtail the state's initiative power. In 2020, the General Assembly submitted a ballot [measure](#) to the voters that would have required a minimum number of petition signatures from 27 of the state's 45 counties, eliminated the ability for petitioners to collect additional signatures if their initial filing falls short, and moved the initiative petition filing deadline to earlier in the year by about six months. Voters [rejected](#) this proposal by a 56-44 margin. The General Assembly also enacted [a law](#) in 2021 that added several restrictions to the petition circulation process, many of which are the subject of a pending federal lawsuit.¹⁰

The apparent impetus for these proposed restrictions, including Issue 2, is Arkansas voters' increased use of the state's initiative power to implement policies that the Arkansas General Assembly opposes. There were successful initiatives to increase the state's minimum wage in 2014 ([Issue 5](#)) and 2018 ([Issue 5](#)), as well as a successful initiative to legalize medical marijuana in 2016 ([Issue 6](#)). There have also been a number of initiatives opposed by legislators that initially appeared to qualify for submission to the voters but were subsequently removed from the ballot by the state supreme court; this includes recent proposals to [reform the state's redistricting process](#), to [create open, top-four primary elections and ranked-choice voting for general elections](#), and to [impose term limits on the state's lawmakers](#).

Presumably in reference to these past initiatives, supporters of Issue 2 [argued](#) that it is too easy to place issues on the ballot in Arkansas and that "big money out of state interests" want to "hijack" the state's "lenient ballot access laws." Opponents of Issue 2 disagreed, [arguing](#) that it is difficult for initiative campaigns to qualify for placement on the ballot and that the simple majority rule that had been in place for 100 years should not be changed.¹¹

Arizona voters approved a supermajority threshold for initiatives that adopt a tax, and single-subject requirements for voter-initiated statutes.

In Arizona, voters approved two legislatively referred measures that will require a 60% supermajority for passage of any future ballot measure to approve a tax (initiated or referred) and will require future voter-initiated statutes to be limited to a single subject.

Arizona's supermajority proposal, submitted as [Proposition 132](#) at the general election, was sparked by the history of Arizonans approving ballot measures that propose tax increases to raise revenues for different priorities. Most recently, in 2020, Arizona voters [approved](#) an income tax increase on income over \$250,000 to provide increased pay and benefits for teachers and support staff ([Proposition 208](#)).¹² Arizona voters also [approved](#) a sales tax increase in 2000 to increase funding for schools ([Proposition 301](#)), and they have approved at least three increases to the state's cigarette and tobacco taxes since 1994 to raise revenue for several purposes: to provide healthcare for medically needed and low income children ([1994, Proposition 200](#)), to fund enforcement and education measures for the state's indoor smoking ban (2006, [Proposition 206](#)), and to fund early childhood education programs (2006, [Proposition 203](#)).

These prior tax increases were invoked by both supporters and opponents of Proposition 132. Supporters [pointed](#) to what they deemed an incongruity in that the legislature must approve taxes by a two-thirds vote, while the electors can approve tax increases by a simple majority vote. Opponents, meanwhile, [argued](#) that the initiative process had served Arizonans well as

written, and they pointed to the different priorities that had been funded through voter-approved tax increases that otherwise would not have received funding. Proposition 132 [narrowly passed](#) by a 50.7-49.3 margin—a simple majority.

Arizona’s single subject proposal, submitted as [Proposition 129](#) at the general election, was inspired by an Arizona Supreme Court decision from 2017 that had held that the state constitution’s single subject rule applied to legislative statutes but not to voter-initiated statutes.¹³ That decision arose out of a challenge to an approved voter-initiated statute concerning both paid sick leave and the state’s minimum wage.¹⁴ The plaintiffs had alleged that measure violated the Arizona Constitution’s “separate amendment” and single subject rules, but the Arizona Supreme Court unanimously held that the former applies only to initiated constitutional amendments while the latter applies only to legislative statutes.¹⁵

Supporters of Proposition 129 had [argued](#) that it was necessary to hold initiated statutes to the same standards as legislative statutes and also that most other initiative states have single subject rules. Opponents, on the other hand, [argued](#) that the measure would open the door to legal challenges regarding what qualifies as a single subject and serve as an additional barrier for citizens to exercise their initiative rights. Proposition 129 was ultimately [approved](#) by a 55-45 margin.

Looking Ahead

Looking ahead to the 2023 election cycle, it should be a quieter year for democracy-related ballot measures compared to 2022. In the [past decade](#), even-year election cycles have seen an average of 152 statewide ballot measures submitted to voters around the country while odd-year election cycles have seen an average of only 29 ballot measures submitted to voters. This is likely due to two interrelated factors: (1) odd-year elections historically attract lower voter turnout than even-year elections, presenting lawmakers and initiative campaigns with the consideration of when the electorate might be most favorable to their issue; and (2) many state constitutions do not even allow proposed constitutional amendments (legislatively referred or initiated) to be submitted to the voters in odd-numbered years, instead requiring that such proposals be submitted at general elections. Still, there will likely be *some* activity this year.

In Missouri, legislators are reportedly considering proposals to impose a supermajority requirement for future initiated constitutional amendments, similar to the one rejected by Arkansas voters at the 2022 general election. In February 2022, the Missouri House [passed](#) a measure that would have required a two-thirds vote (66.67%) of the people to amend the state constitution and increased the initiative petition signature requirement, but the proposal was not approved by the Missouri Senate. The idea appears to have picked up momentum following the 2022 general election, with state lawmakers [pre-filing nearly a dozen proposals](#) to make the state’s initiative process more difficult and the new Missouri Senate Majority Leader

and Senate President Pro Tem [both indicating](#) that changing the initiative process is a top priority for them.

There is a similar story in Ohio. Following the 2022 general election, there was a push during the state legislature's lame duck session to submit a proposed constitutional amendment that would impose a [60% supermajority requirement](#) for future constitutional amendments. The proposal was approved by an Ohio House committee, but ultimately did not pass during the lame duck session. The proposal's primary sponsor in the legislature [indicated](#) that he would try again during the 2023 legislative session, with an eye to submit the measure at the state's May 2023 primary ballot.

In Pennsylvania, lawmakers are [considering](#) proposed constitutional amendments to impose a strict voter ID requirement and provide for the auditing of elections and election results. During the 2021-2022 legislative session, state legislators approved a joint resolution that would submit constitutional amendments addressing these two subjects (and four other subjects) to the voters. However, the state constitution requires that legislatively referred constitutional amendments receive legislative approval at two successive sessions before they can be submitted to the voters,¹⁶ meaning that the legislature would have to approve the resolution again during the 2023-2024 session before the proposals could be submitted to the voters. (May 2023 is the earliest the proposals could be submitted to the voters.) It is unclear if this will happen. The joint resolution approved in 2022 is subject of a [lawsuit](#) filed by the Governor, who challenged the legislature's decision to lump together six amendments into one resolution. In addition, political control of the Pennsylvania House [flipped](#) at the 2022 general election, potentially eliminating the support needed for the resolution to be approved a second time.

Additional democracy-related ballot measures may well reach the voters in the coming year, and if history is any guide, another wave of such proposals is likely in 2024. These recent and upcoming measures underscore the central role that voters around the country can play in shaping their states' democratic systems.

¹ Cf. Joshua A. Douglas, *The Right to Vote Under State Constitutions*, 67 VAND. L. REV. 89, 103-04, 144-49 (2014) (identifying and describing each state constitution's right to vote); Jessica Bulman-Pozen and Miriam Seifter, *The Democracy Principle in State Constitutions*, 119 MICH. L. REV. 859, 870-71 (2021) (same).

² NEV. CONST. art. XIX, § 2(4). Fifteen other states have some version of a requirement or option in which the state legislature must approve a legislatively referred constitutional amendment at two successive legislative sessions either to submit the proposed amendment to the voters or for the amendment to take effect. But Nevada is the only state that requires a constitutional amendment to receive voter approval at two successive elections for passage.

³ CONN. CONST. art. VI, § 7.

⁴ CONN. CONST. arts. XI-XII.

⁵ The North Carolina Supreme Court [later called the validity of the 2018 ballot measure into question](#) in August 2022, *N.C. NAACP v. Moore*, 382 N.C. 129 (2022), and [invalidated the state’s photo ID requirement](#) in December 2022, affirming a lower court’s finding that the law “was motivated by a racially discriminatory purpose, *Holmes v. Moore*, --- N.C. ---, 2022 WL 17725847 (Dec. 16, 2022).

⁶ The Republican Nebraska Secretary of State had even [sent state legislators](#) a [presentation](#) that dispelled conspiracy theories about the state’s management of the 2020 presidential election.

⁷ See Ariz. Const. art. IV, § 1(6)(C), (14), (15).

⁸ The measures in New York City and San Francisco have both been challenged in court. New York City’s measure, which was approved in 2021 (and set to take effect in 2023) and allows non-U.S. citizen residents to vote in municipal elections, was [struck down](#) by a state trial court in June 2022. The judge held that the local measure violated the state constitution, which, the judge found, limits those eligible to vote to U.S. Citizens. The City [appealed](#) the decision in July 2022, and the matter remains pending. San Francisco’s measure, which was approved in 2016 and allows non-citizen parents to vote in the city’s school board elections, was [struck down](#) by a state trial court in July 2022. Similar to the New York trial court’s decision, the California trial court [held](#) that the California Constitution limits the franchise for local elections to U.S. citizens. The City appealed the decision, and the matter [remains pending](#) (briefing will continue through early 2023), though the appellate court [stayed](#) the lower court’s decision for the 2022 election, effectively allowing non-citizen parents to vote in the 2022 election.

⁹ Prior to its appearance on the June ballot, Amendment C was also the subject of two unsuccessful legal actions that sought to derail it. In one, plaintiffs claimed that the proposal violated the state’s single subject rule, but the state court did not weigh in on the merits of the claim in time [due to a dispute](#) over whether the state attorney general’s office had been properly served with notice of the suit. In the other, plaintiffs challenged a determination by the Secretary of State that the underlying legislative resolution that had placed Amendment C on the June ballot was not subject to referendum; the plaintiffs had hoped to circulate a referendum and force the proposal onto the November ballot. But the South Dakota Supreme Court [agreed](#) with the Secretary of State and held that the resolution was not within the scope of the state’s referendum power.

¹⁰ *Liberty Initiative Fund v. Thurston*, E.D. Ark. Case No. 4:21CV00460. To date, most of the claims have survived a motion to dismiss filed by the Defendant Secretary of State. *Liberty Initiative Fund v. Thurston*, E.D. Ark. Case No. 4:21CV00460, 2022 WL 1109800 (Apr. 13, 2022).

¹¹ Similar arguments have notably occurred in other states as lawmakers in places like [Missouri](#) and [Ohio](#) have weighed similar proposing supermajority requirements on their states’ initiative processes.

¹² The measure was [later invalidated](#) by a state court as violating a state constitutional spending limit.

¹³ *Ariz. Chamber of Commerce & Industry v. Kiley*, 242 Ariz. 533, 399 P.3d 80 (2017).

¹⁴ *Id.* at 536.

¹⁵ *Id.* at 541-42.

¹⁶ PA. CONST. art. XI, § 1.