



Reform of Michigan's Ballot Question Process

CRC Webinar

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About The Citizens Research Council

- Founded in 1916
- Statewide
- Non-partisan
- Private not-for-profit
- Promotes sound policy for state and local governments through factual research
- Relies on charitable contributions of Michigan foundations, businesses, and individuals
- www.crcmich.org



Seeming Growth of Voter Dissatisfaction with Ballot Questions in Prior Elections

- Years like 2012 with large numbers of ballot questions
 - Is it too easy to qualify ballot questions for the ballot?
 - Do allowances for paid petition circulators run counter to ideal of initiative as a tool for grassroots democracy?
 - Is dissatisfaction rooted in the types of questions being asked in recent years?
 - Is dissatisfaction rooted in the dysfunction of State Board of Canvassers?
 - Is issue advertising for ballot questions part of the problem?



First Amendment Issues

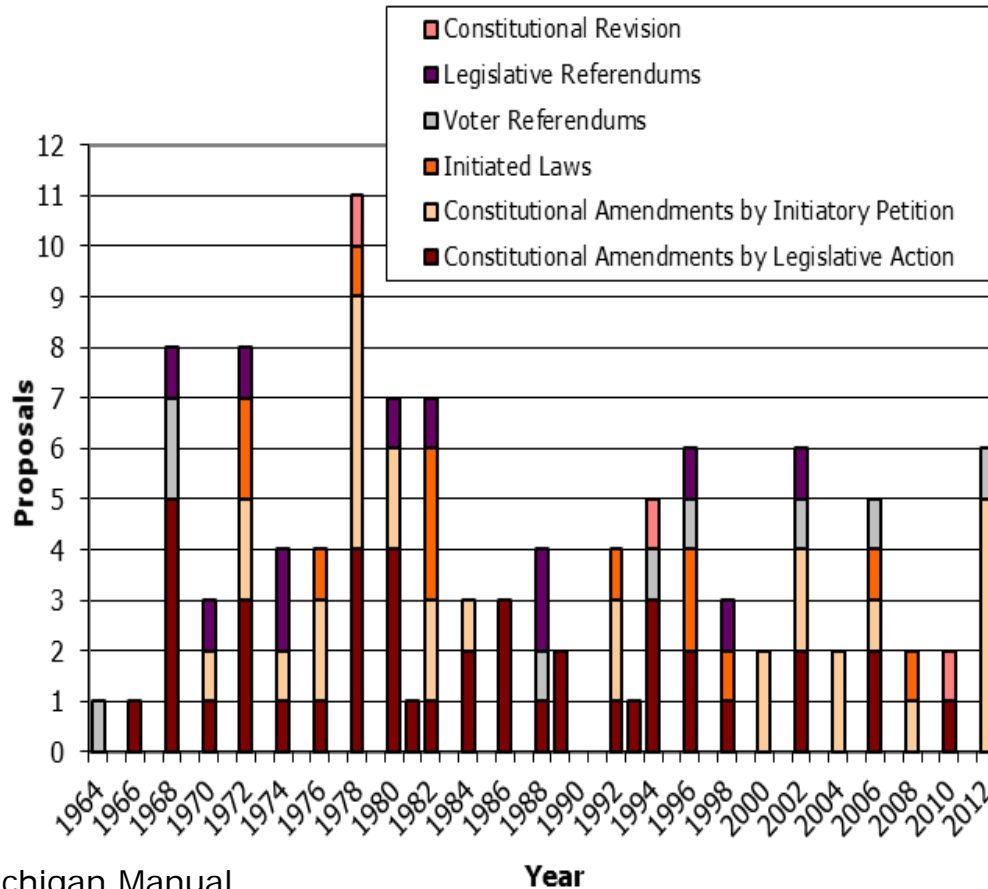
- The circulation of petitions to initiate laws “involves the type of interactive communication concerning political change that is appropriately described as ‘core political speech.’”
- The challenge in reforming the ballot question process is to focus specifically on the issues determined to not be working and to craft policy solutions that do not diminish the First Amendment rights of those interested in proposing or opposing ballot questions.



Defining the Types of Ballot Questions

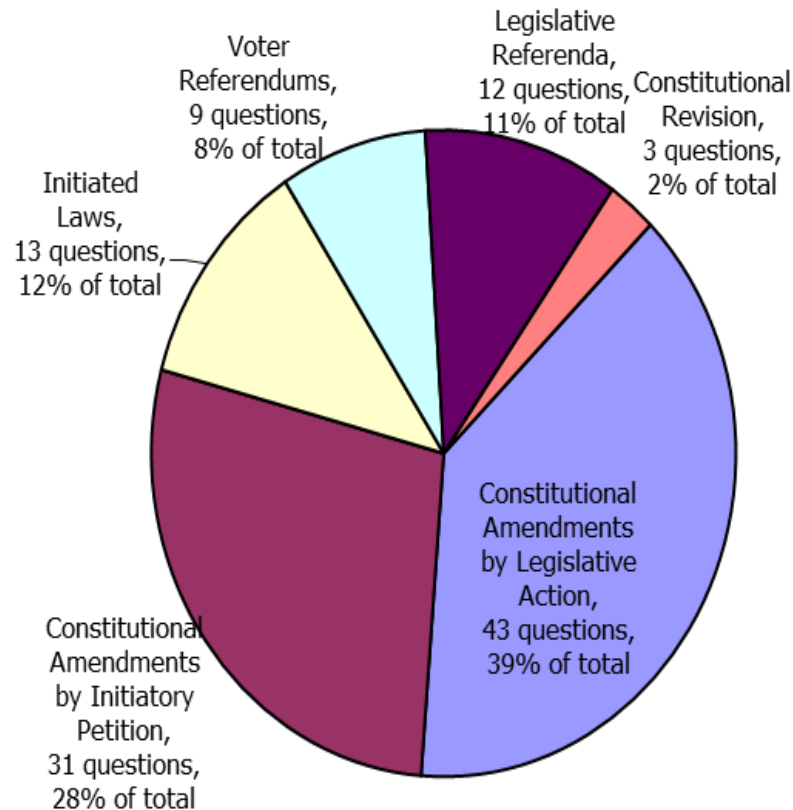
- Statutory Initiative
- Constitutional Amendments
 - Legislatively Proposed
 - Voter Initiated
- Voter Referendum
- Legislative Referendum
- Constitutional Revision

Michigan Ballot Questions by Year, 1964-2012 (Was 2012 an unusual year?)

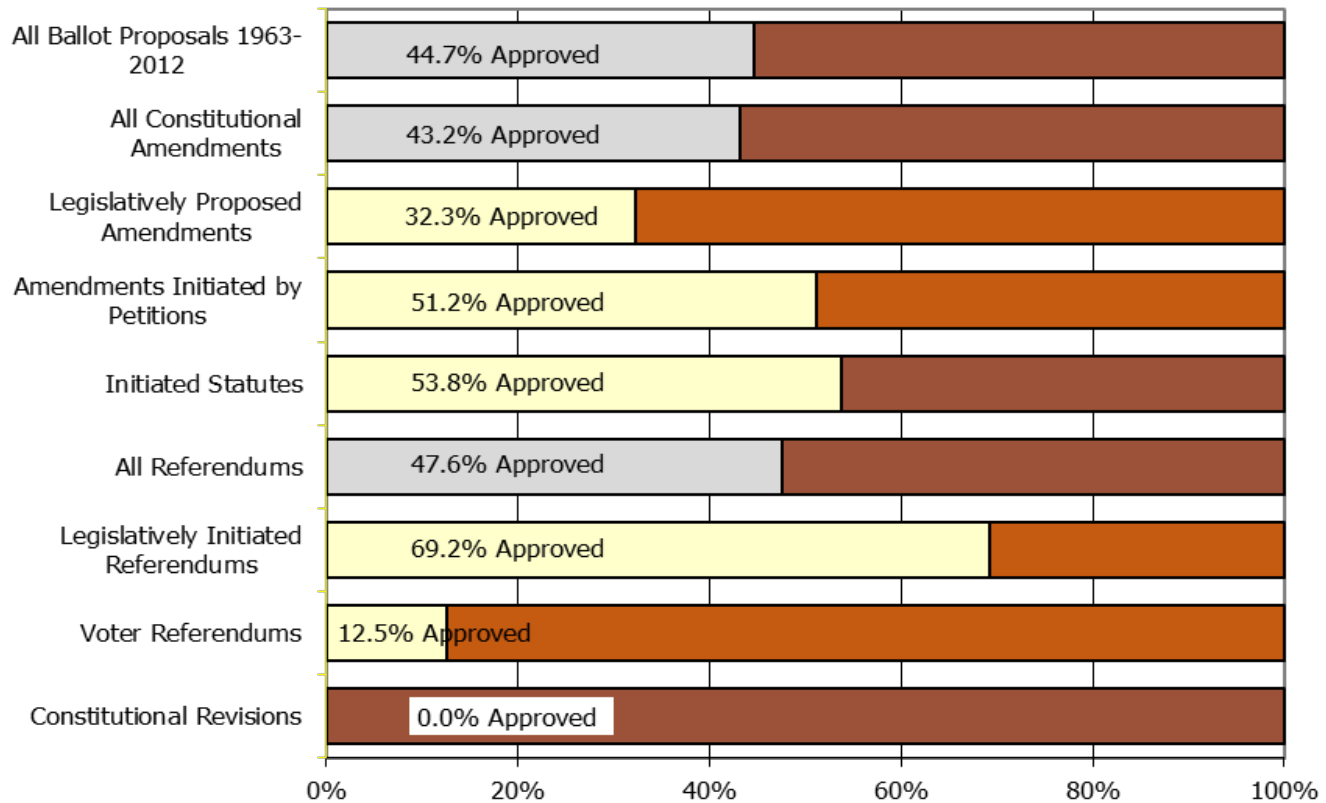




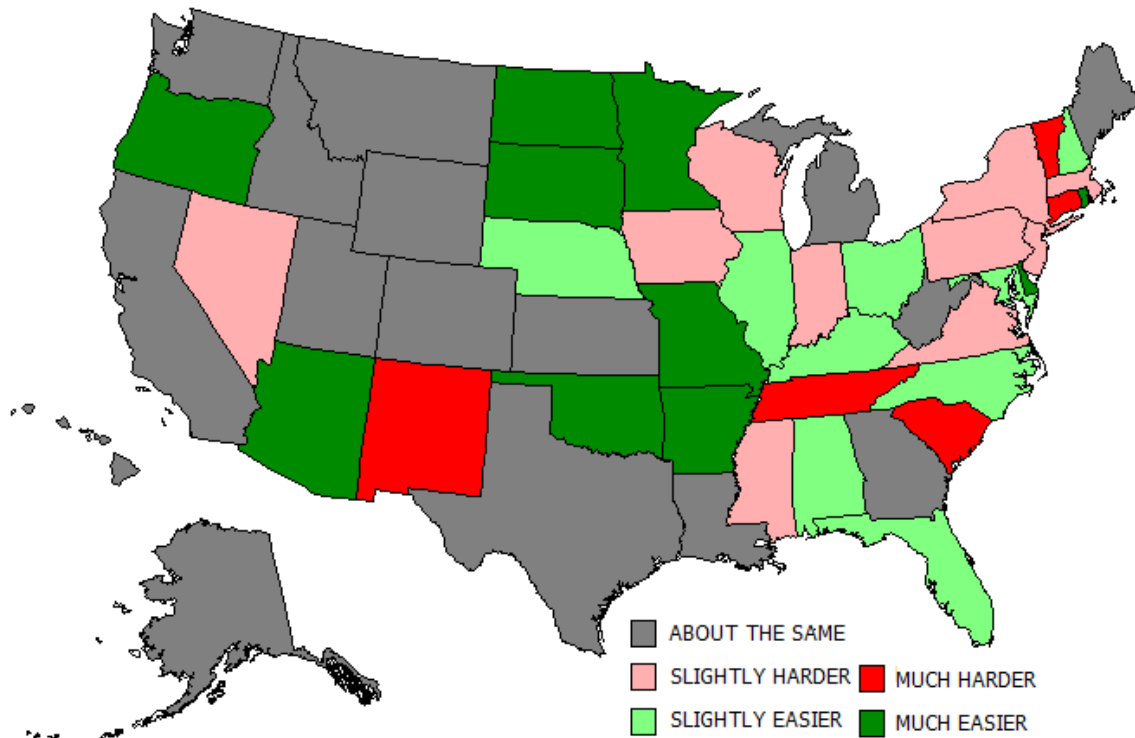
Types of Ballot Questions Submitted to Michigan Electors, 1964-2012



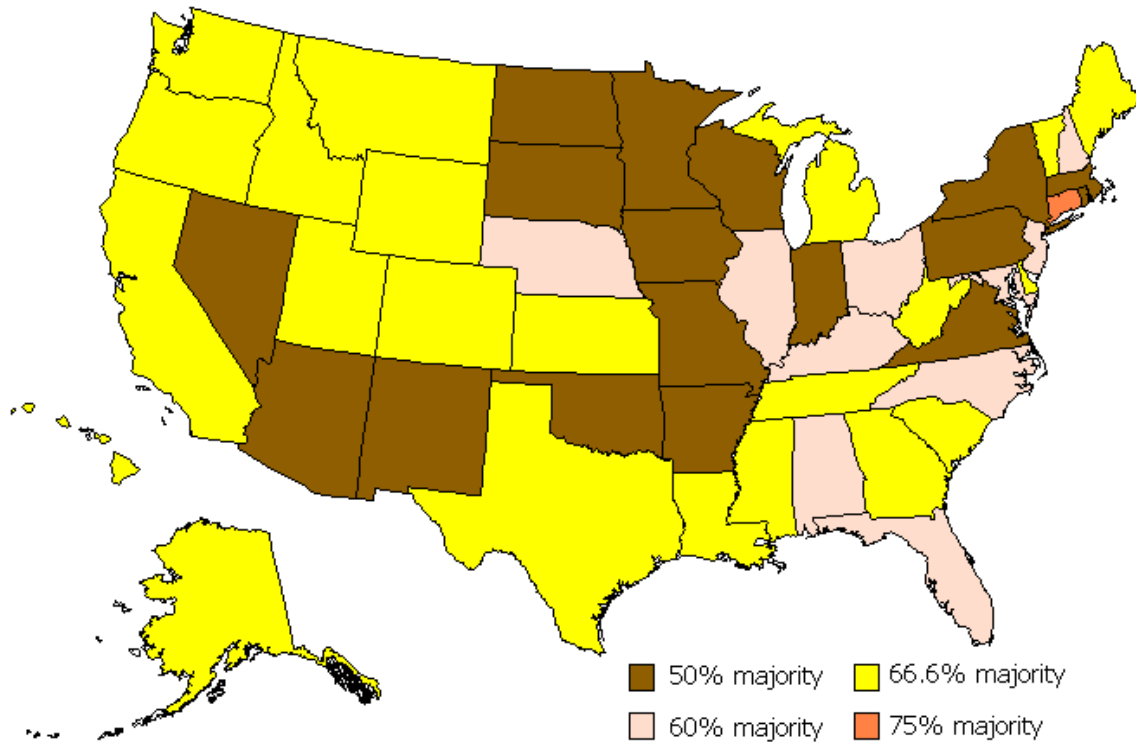
Approval Rate of Michigan Ballot Questions, 1964-2012



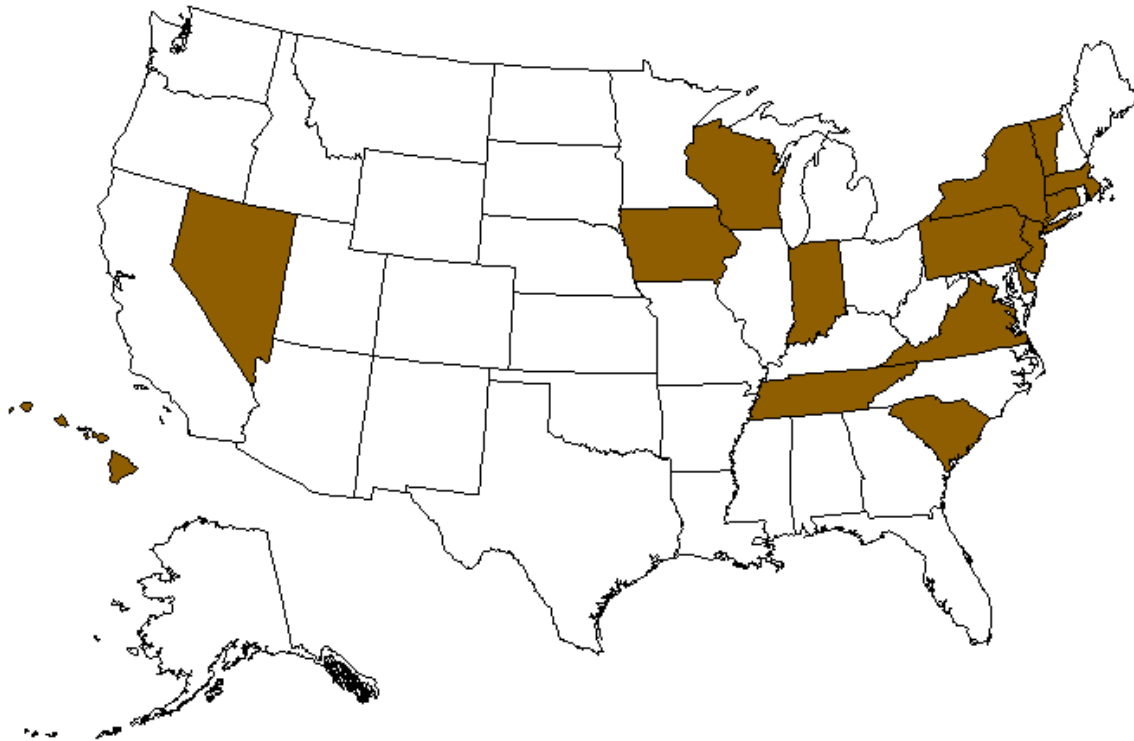
The Ease/Difficulty for Each State's Legislature to Place Proposed Constitutional Amendments on the Ballot Compared to the Process in Michigan



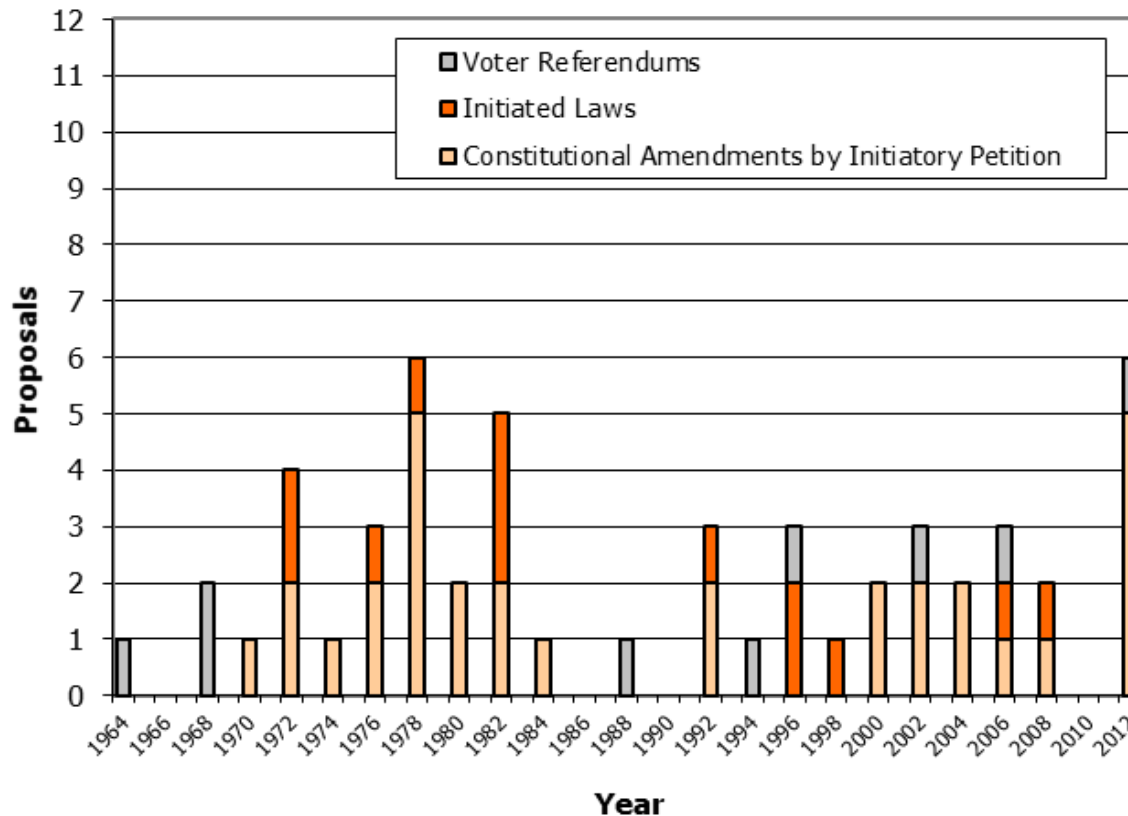
Legislative Majorities Required to Place Constitutional Amendments on the Ballot in Each State



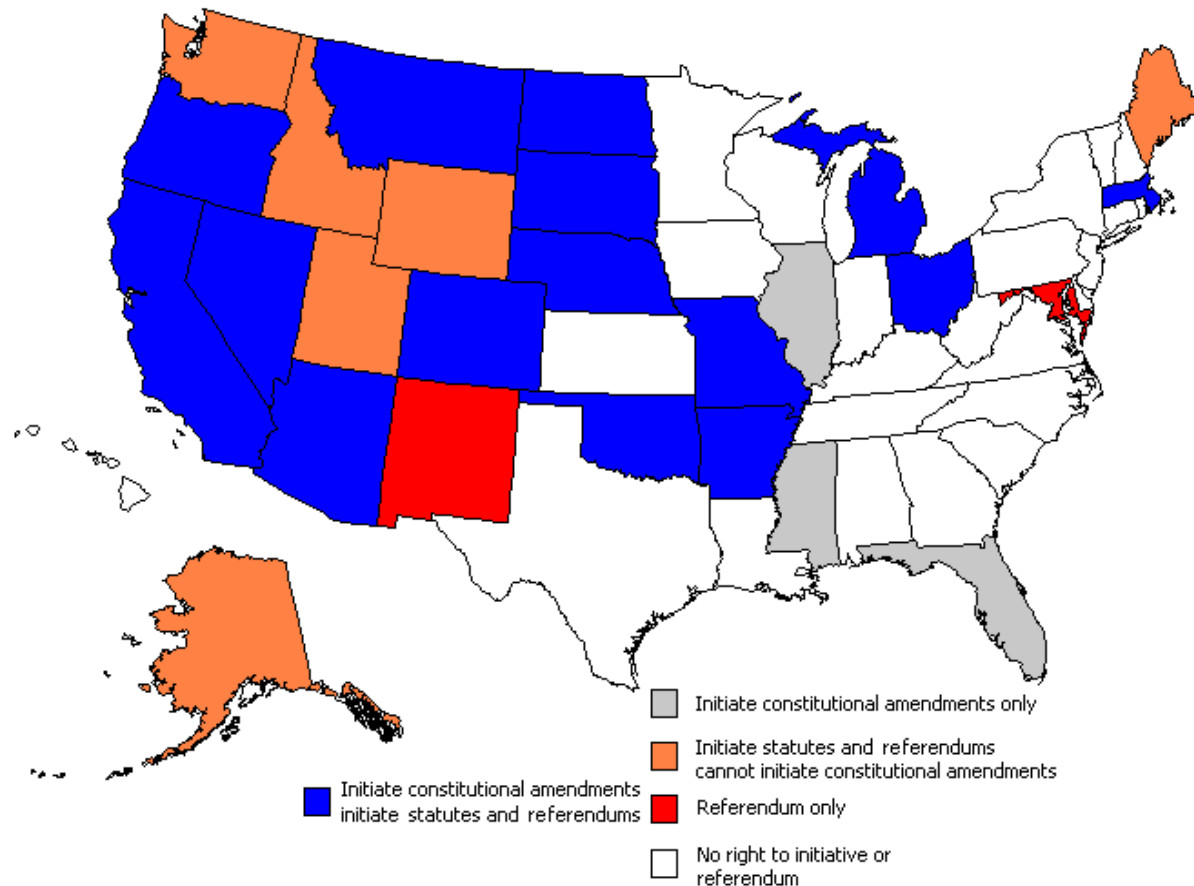
States in Which Consideration in Two Legislative Sessions is Required to Submit or Adopt Constitutional Amendments



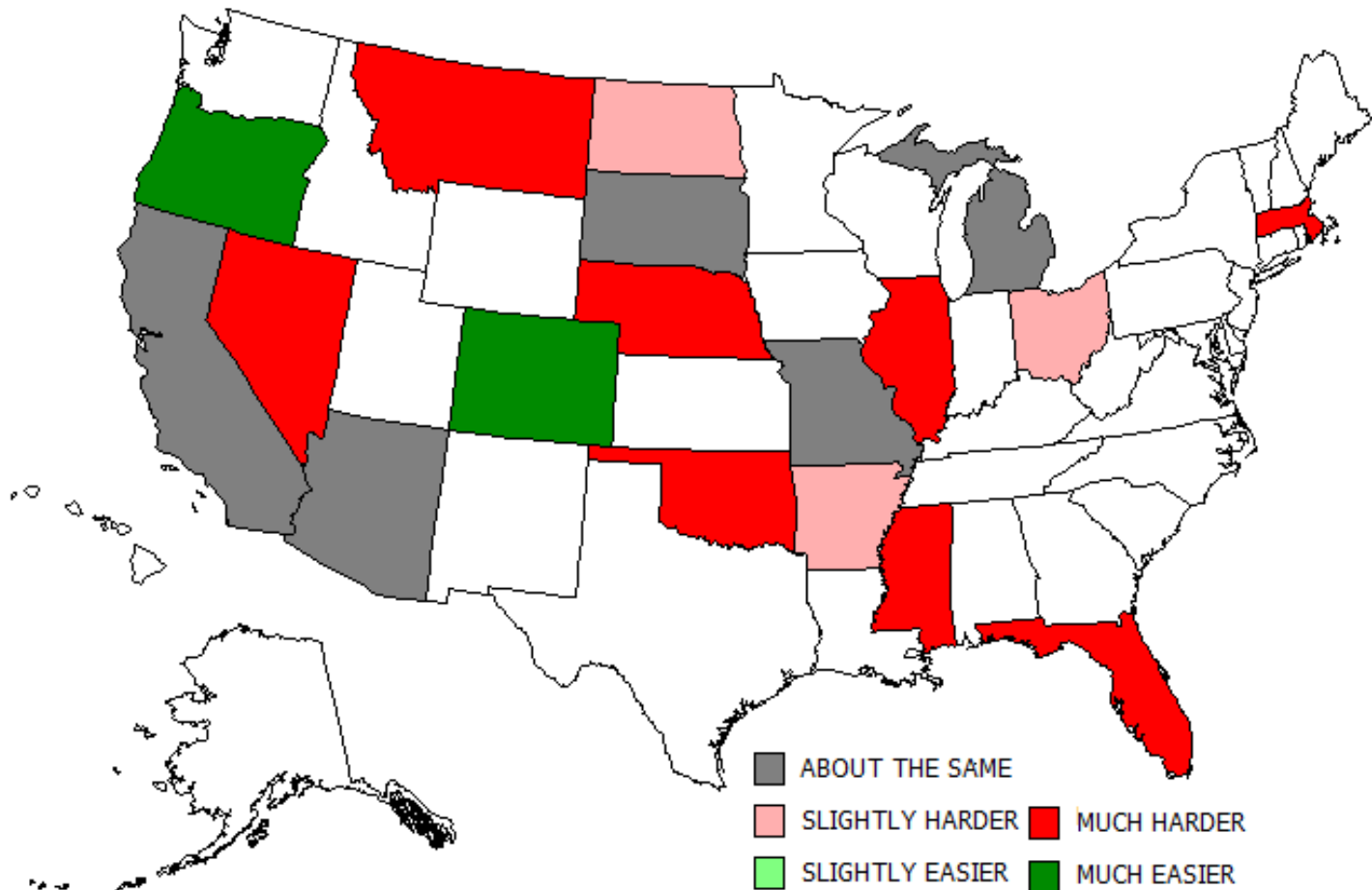
Michigan Ballot Questions Submitted by Petition Process, 1964-2012



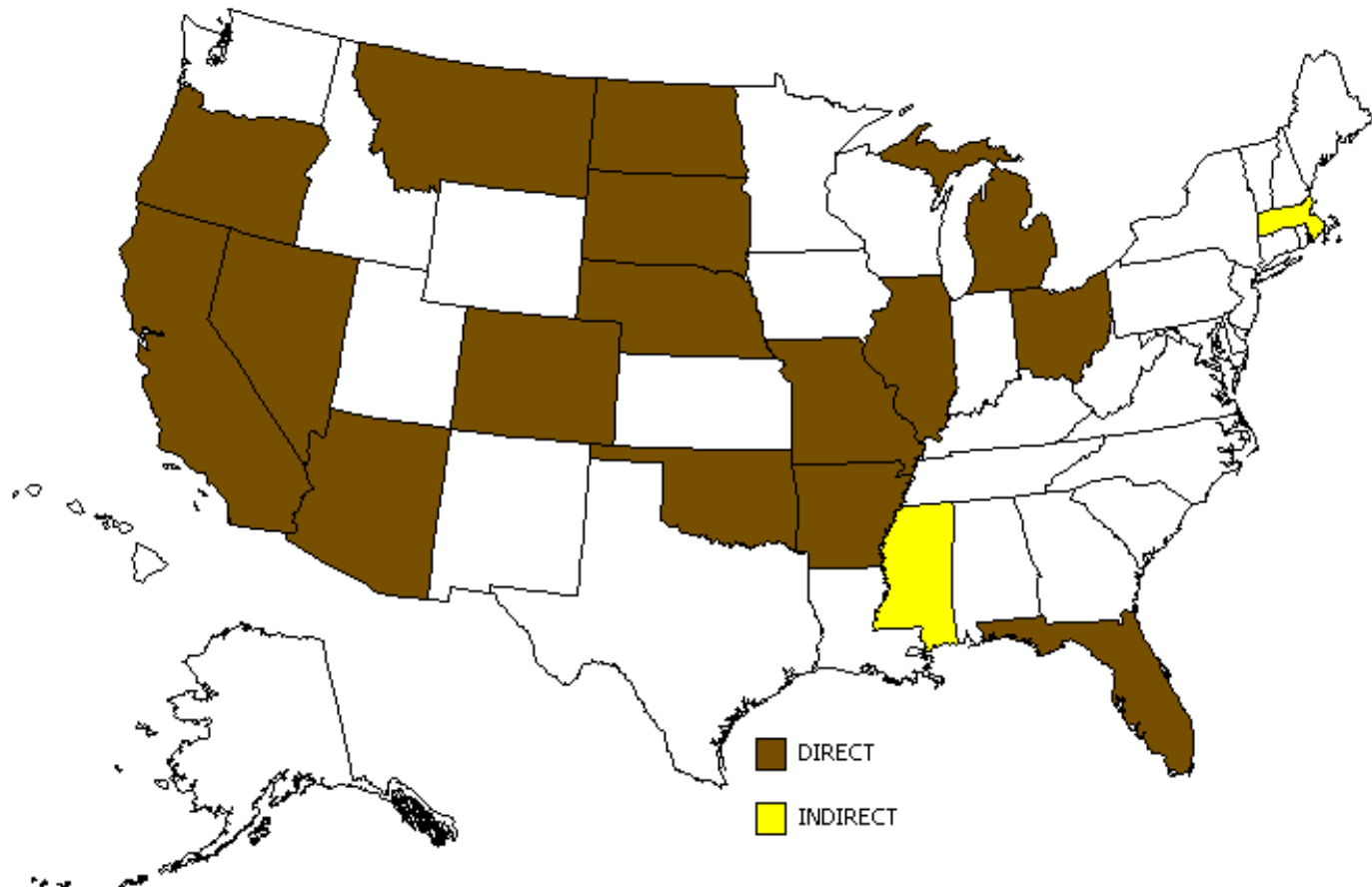
Authority for Citizens in Each State to Initiate Statutes and Constitutional Amendments or Petition for Referendums



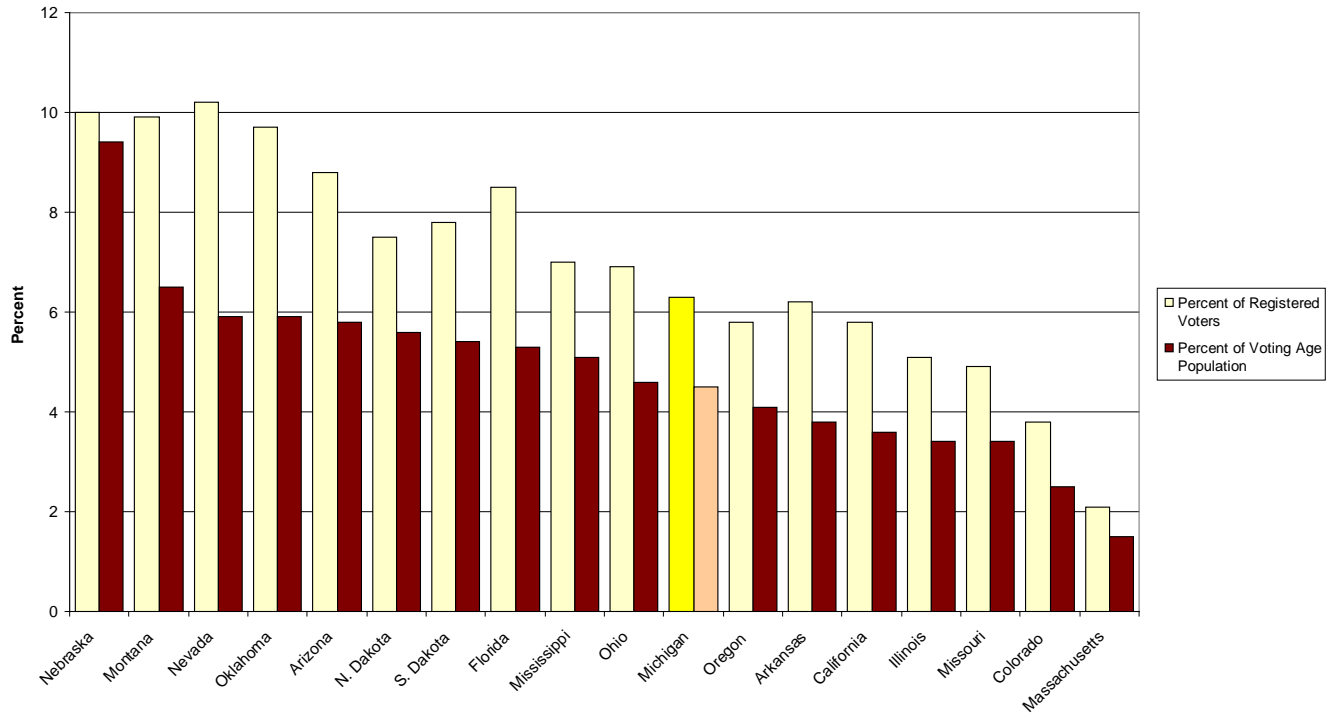
The Ease/Difficulty for Voter-Initiated Constitutional Amendments to Qualify for the Ballot by State Relative to the Requirements in Michigan



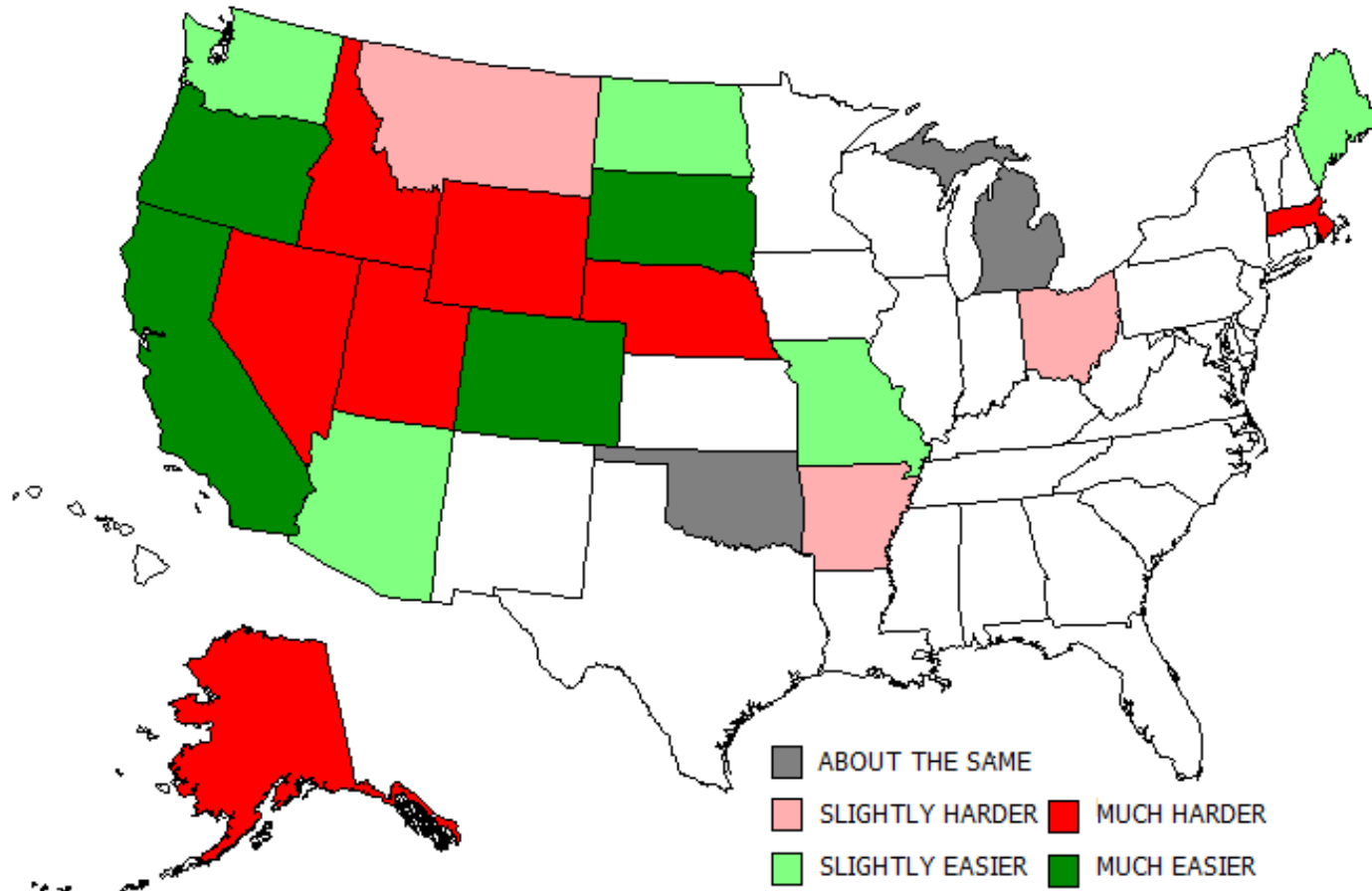
Direct or Indirect Initiative Processes in States that Authorize Voter-Initiated Constitutional Amendments



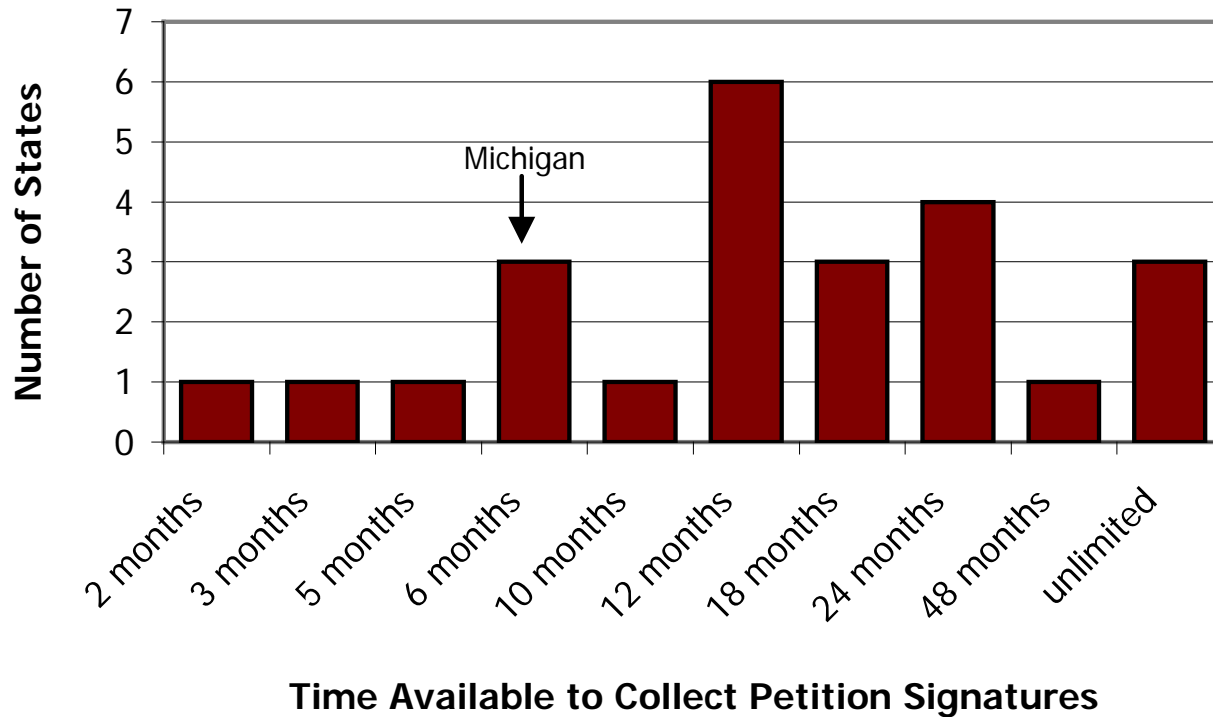
State Signature Requirements by Percentage of Registered Voters and Voting Age Population to Qualify Voter-Initiated Constitutional Amendments for the Ballot



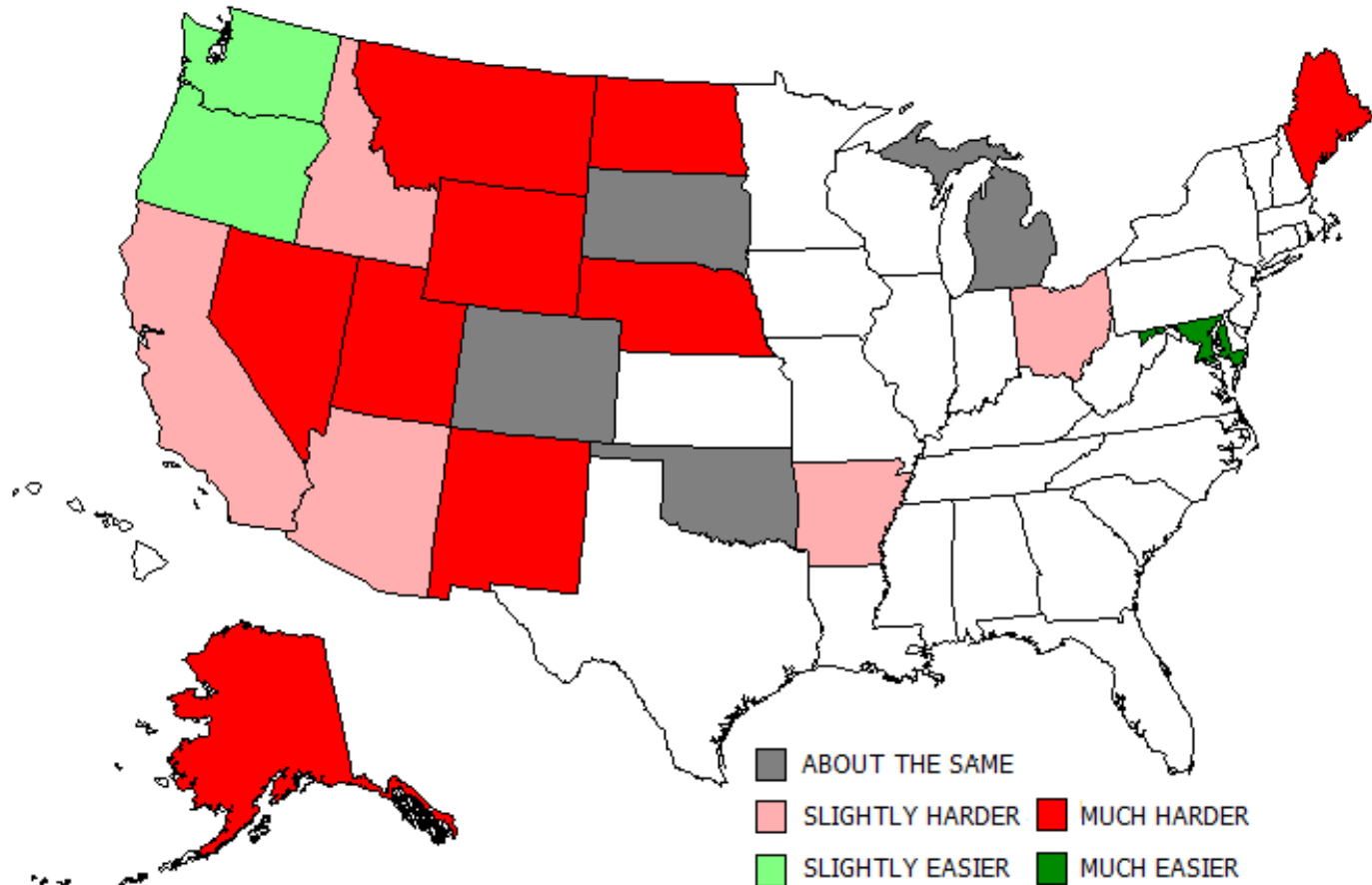
The Ease/Difficulty for Voter-Initiated Statutes to Qualifying for the Ballot by State Relative to the Requirements in Michigan



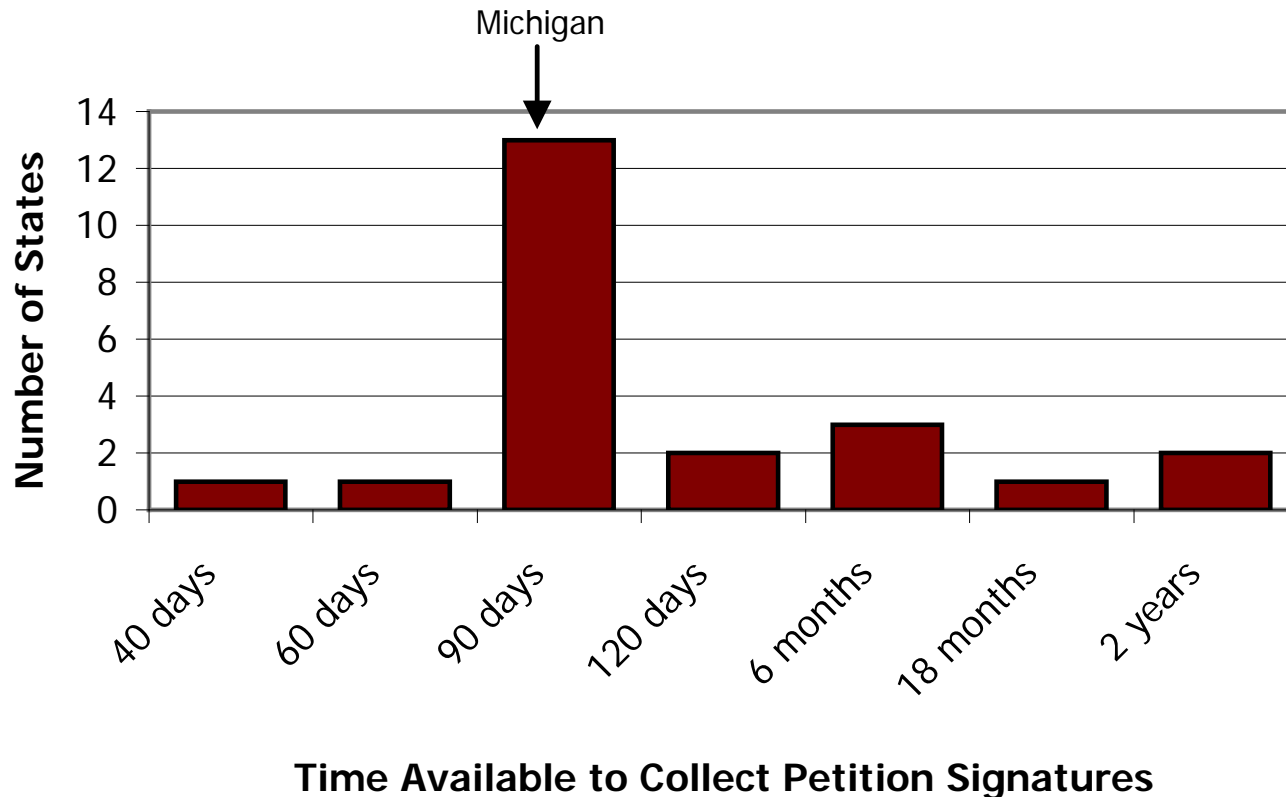
Maximum Time Period for Circulating Initiative Petitions in Each State



The Ease/Difficulty for Voter Referendums to Qualifying for the Ballot by State Relative to the Requirements in Michigan



Maximum Time Period for Circulating Referendum Petitions in Each State





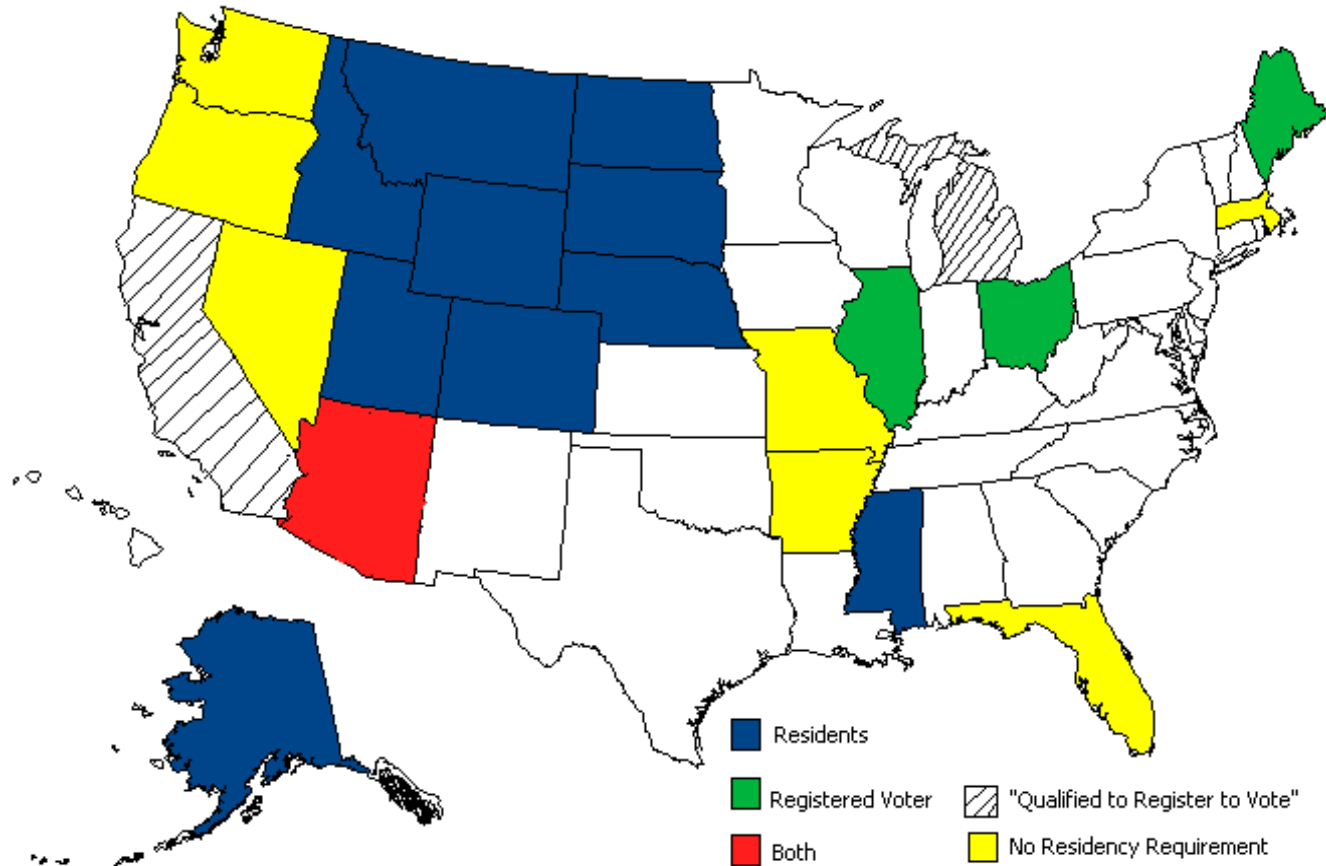
Should Michigan's Provisions for Direct Democracy be Changed?

- Narrow Differences in Thresholds
- A Changing World
- Geographic Diversity
- Who Benefits from Longer Collection Periods?

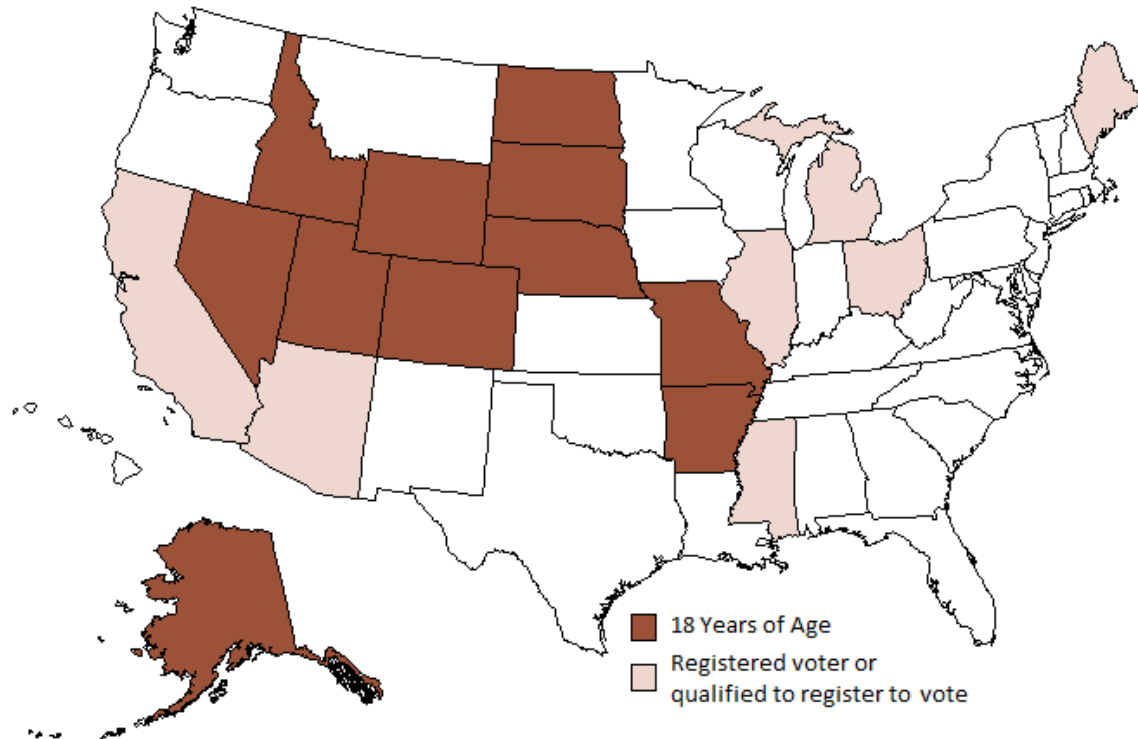
Laws Affecting Petition Circulators

- States have made efforts to identify, restrict, and regulate paid petition circulators with provisions that:
 - Require them to be registered voters in that state
 - Require them to be of a minimum age
 - Require paid circulators to be differentiated from volunteer circulators
 - Restrict how proponents may compensate the paid circulators

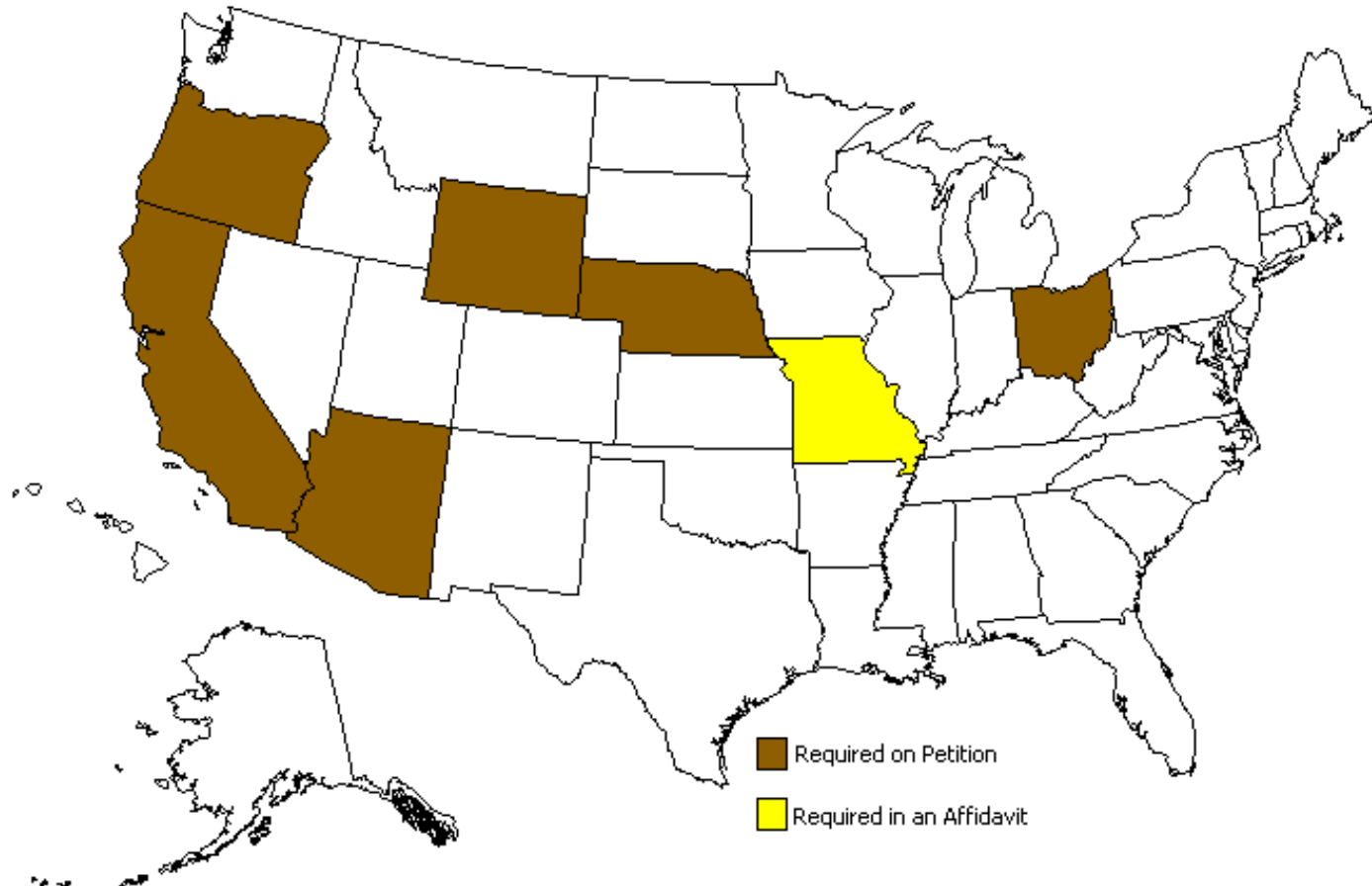
States that Require Petition Circulators to be Residents of that State



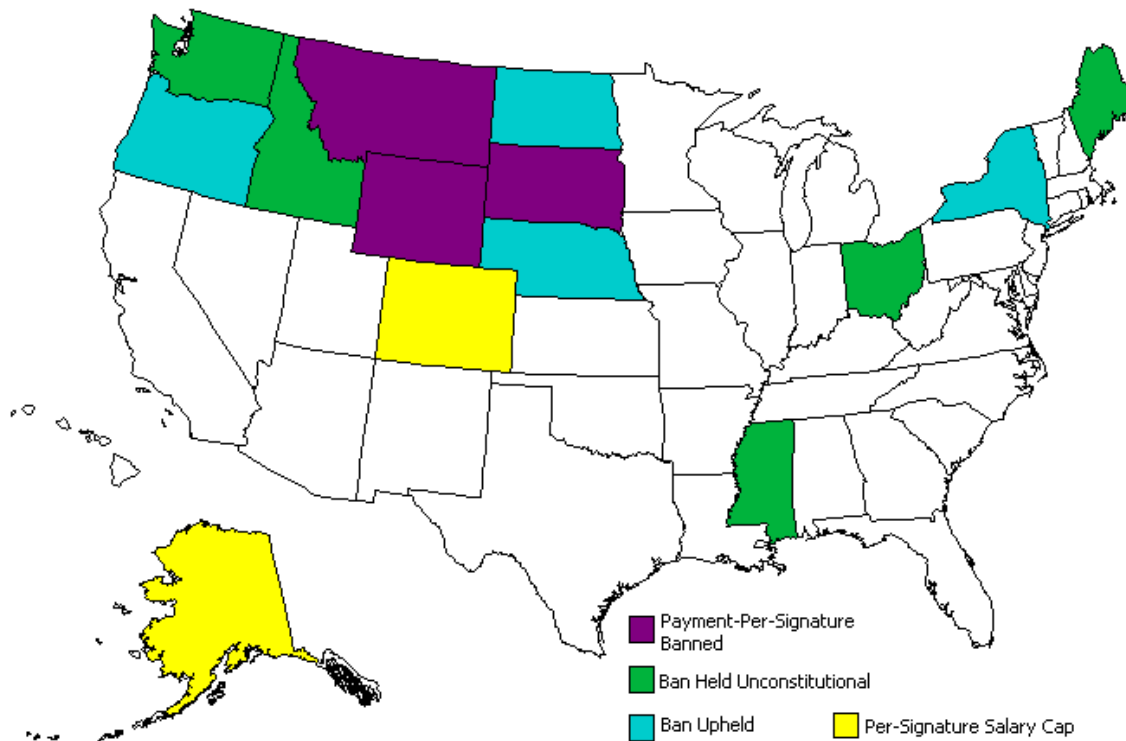
State Restrictions Regarding Petition Circulators' Age



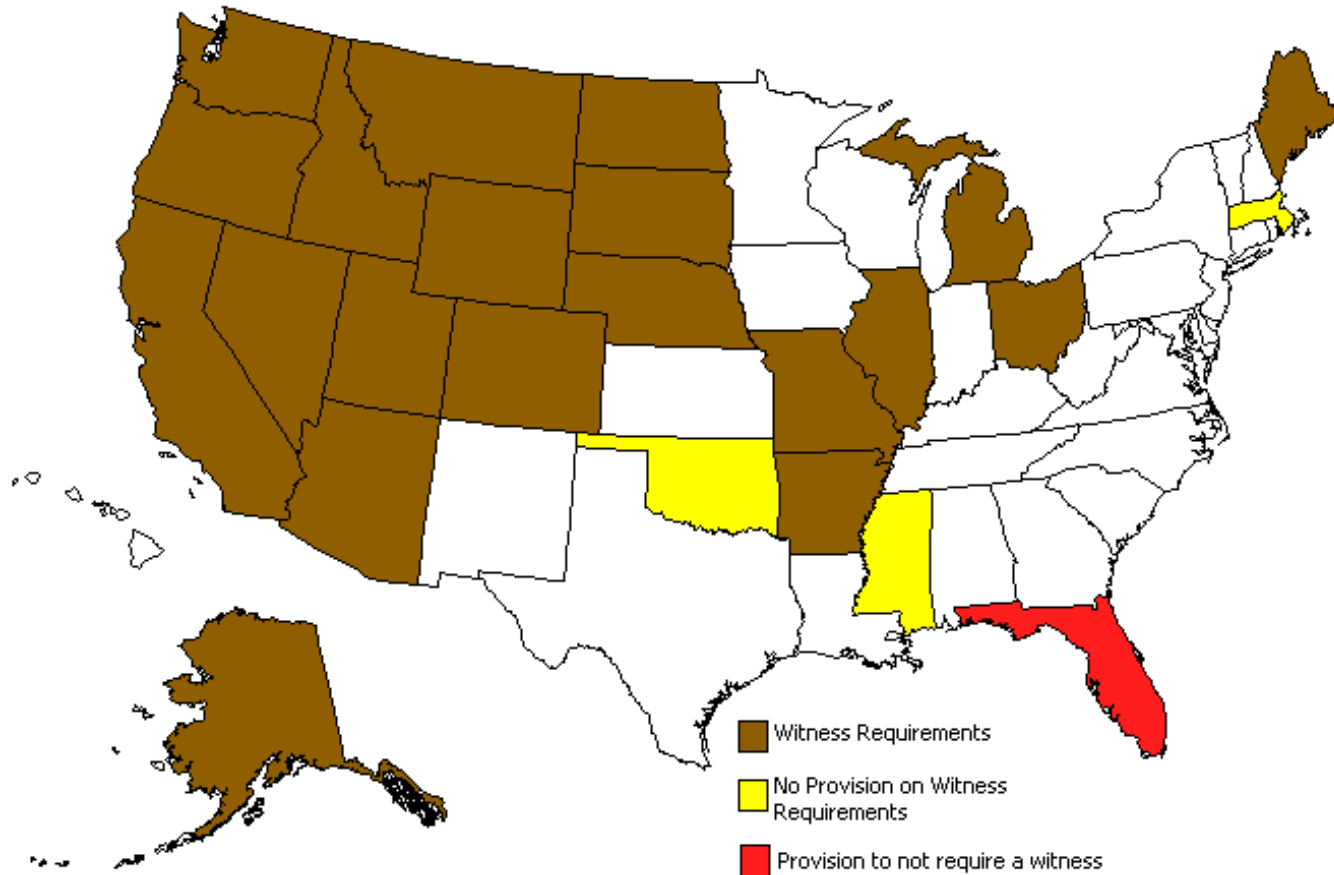
States that Require Circulators to Disclose Paid or Volunteer Status



State Provisions Limiting, Prohibiting, and Allowing Payment-Per-Signature of Petition Circulators



State Requirements for Witnessing Signatures





Informed Petition Signers

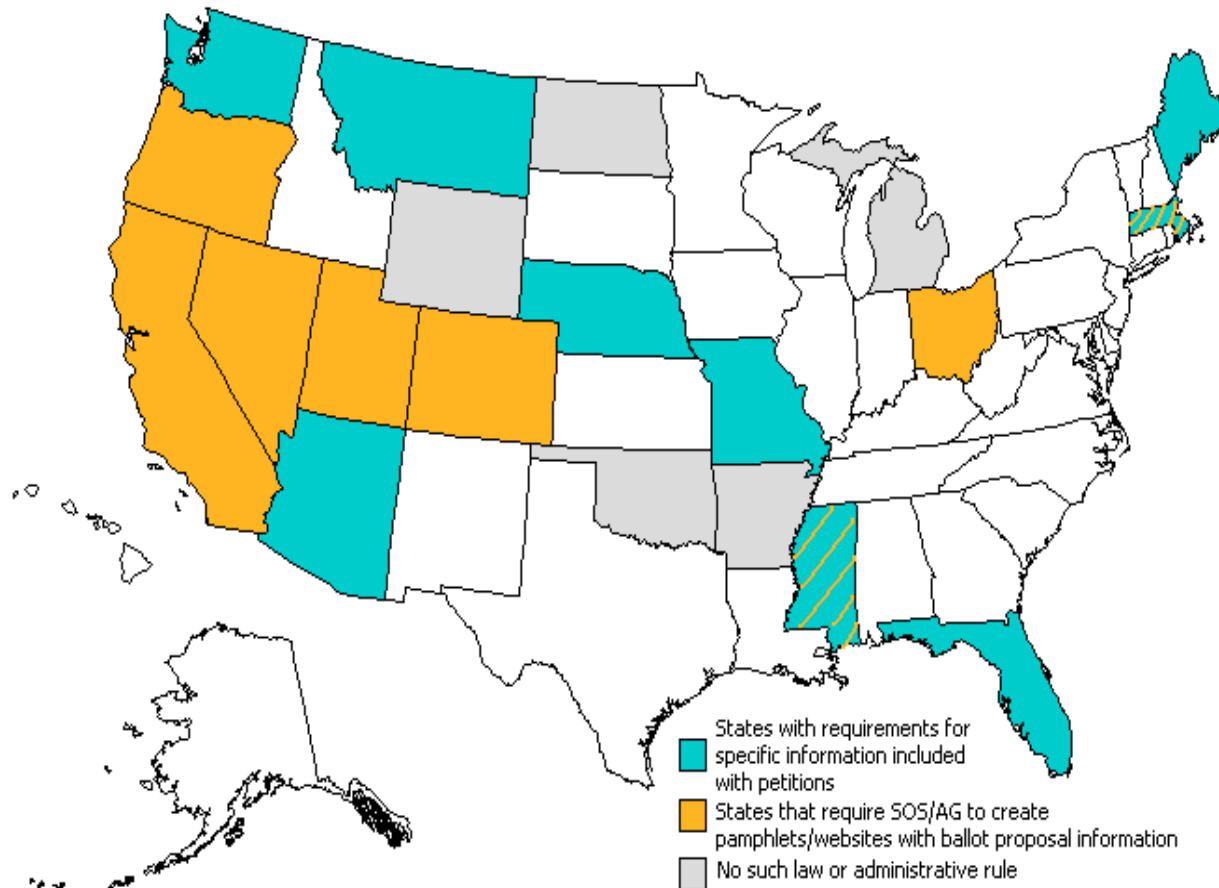
- Petition circulator restrictions and regulations are efforts to save us from ourselves
- Better remedy is to inform voters about petitions being circulated
- 2006 MCRI most recent case of alleged misconduct by petition circulators



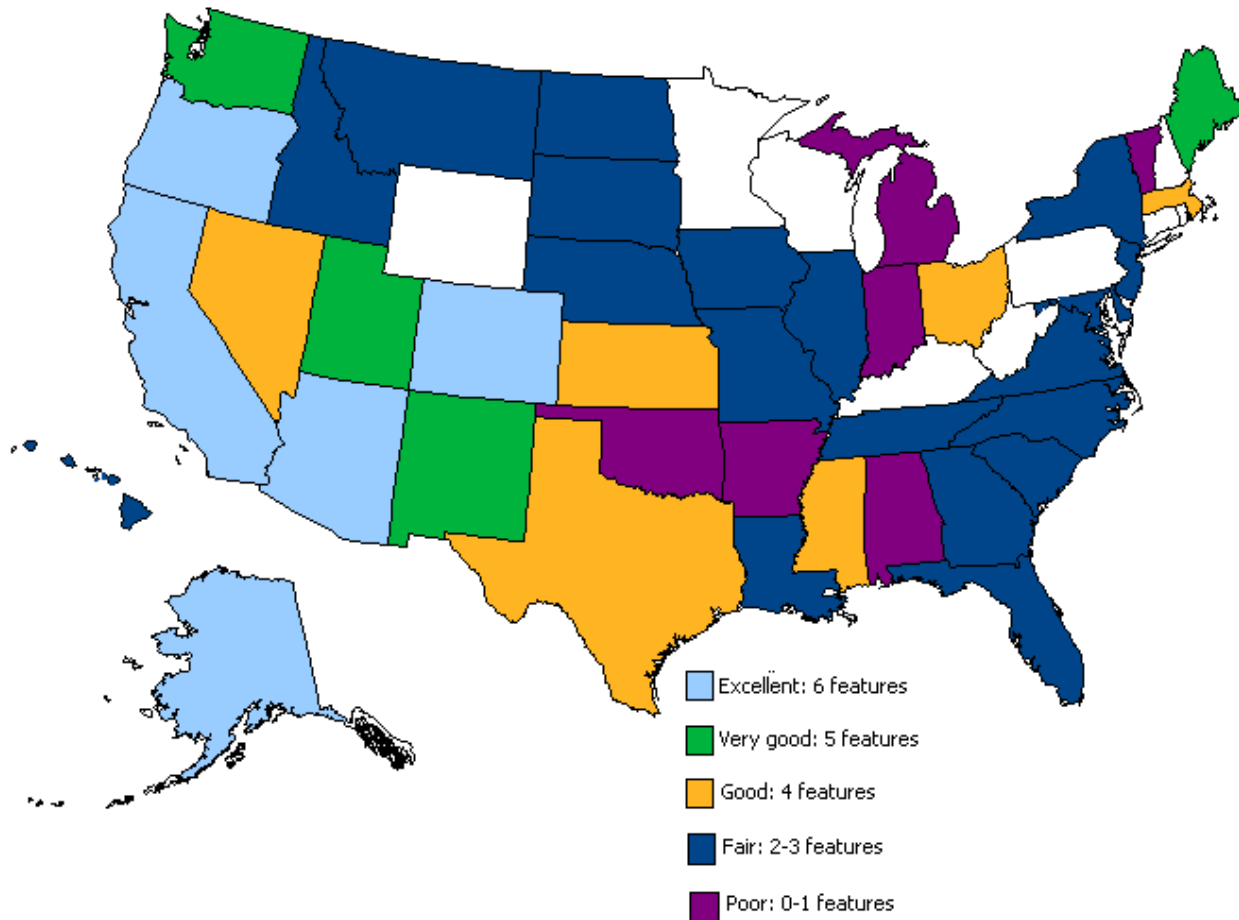
Responsibilities of Self-Government

- "...when the citizen acts in what is essentially a legislative capacity by facilitating the enactment of a constitutional amendment, he cannot blame others when he signs a petition without knowing what it says."
- "A necessary assumption of the petition process must be that the signer has undertaken to read and understand the petition...."

States' Requirements on the Creation of Pamphlets or Websites for Ballot Information



Ballotpedia's Rankings of State Official Voter Guides





Petition Certification Process

- Only Michigan and Illinois do not require proponents to apply to circulate petitions
- Proponents can voluntarily get Board of State Canvassers review of form and style
- No opportunity for review of language or substance of proposals



Front-Loaded Petition Certification Processes

- State processes typically include:
 - Application to circulate petitions
 - Signatures and fees to accompany application
 - Subject matter restrictions
 - Review of substance
 - Petition Preparation



CRC Recommendation

- Prepare 100 word description to be included on the petition
- State prepare voter guides
- BSC either prepare petitions or template to be used
- Step in process for review of substance
- Step in process for Legislative Service Bureau to make language conform with drafting standards
- Step in process for preparation of fiscal notes



Campaign and Electioneering Reform

- Truthfulness in Campaigns
 1. Can the proponents and opponents be compelled to be more truthful in their literature, advertisements, and other promotional material?
 2. What can be done so the residents and voters at least know who is advocating for a yes or no vote on the questions?
- State has no role in promoting truthfulness in this political exercise
- Recommendation – Front-loading certification process to better make voters aware of proposals



Disclosure of Funding

- U.S. election law does not require disclosure of contributors to campaigns for or against ballot questions
- Michigan Department of State does not feel it currently has the statutory authority to regulate issue ads
- Recommendation – Section 26 of the Michigan Campaign Finance Act should be amended to add a Subsection 7 ballot question campaign committees should be required to report individual contributions that are used to pay for electioneering communications or independent expenditures made by the committee



Vote Requirements

- Most states require only a simple majority to approve a ballot question
- Others require super-majorities if not everyone voting at the election weighs in on the ballot question
- CRC does not sense the need for reform in this area



Conclusion

- Role of initiative has changed since its introduction
- The restrictions for placing questions on the ballot in Michigan are not unlike other states where it is authorized
- Still policymakers may wish to revisit Michigan's restrictions
 - Narrow difference between thresholds for constitutional amendments and initiated statutes
 - Advances in communication, transportation, political engagement

Conclusions

- No changes in laws for petition circulators called for at this time
- Michigan should front-load petition certification process
 - Clarify roles of Secretary of State, Board of State Canvassers, Attorney General
 - Eliminate 11th hour races to courts
 - Improve voter confidence in whole process
- Greater disclosure of funding of ballot question campaigns



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