

An Ounce of Prevention: Initiative Integrity Reforms to Protect Missouri from the Radical Left's Agenda

To: Speaker Vescovo, Majority Leader Plocher, President Pro Tem Schatz, and Majority Leader Rowden

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Overview

Most Americans agree that democracy should not be for sale.

But as conservatives continue to win strong majorities in state legislatures across America, the left has found a new strategy to push its agenda: bypass legislatures altogether. Across the country, out-of-state billionaires have flooded conservative states with cash to support ballot initiatives for top liberal priorities like Medicaid expansion and minimum wage hikes.

They fight under the banner of 'democracy,' all while subverting our deliberative process of *representative* democracy and traditional checks and balances. And they're winning—everywhere.

Even in rock-solid, conservative states like your state Missouri and Oklahoma, money from California, New York, and Washington, D.C. bought just enough misleading TV ads and campaign organizers to expand Medicaid by ballot initiative.

Now that the ballot initiative campaigns are over, those states' taxpayers and legislators are left picking up the pieces. They face increased government spending and welfare dependency, neither of which received attention during the one-sided campaigns.

No matter how many conservatives hold seats in the Missouri legislature, without reforming the state's initiative integrity process, Missouri will continue to remain vulnerable to these forces.

For example, when Medicaid expansion was put on the ballot in Oklahoma, about 75 percent of the state's legislators were Republicans. Yet, the initiative passed with less than 51 percent of the vote and majorities in just seven of the state's 77 counties. This was only possible with massive financial support from out-of-state individuals and organizations like The Fairness Project, a group funded and operated by the SEIU, a union in California.

Missouri has the power to protect itself now. And it should. An ounce of prevention is worth a pound of cure.

The Current Initiative Process in Missouri

Under the Missouri Constitution, Article III, Sections 51-53, as governed by the Revised Statutes of Missouri, Title IX, Chapter 116, Missouri citizens may initiate statewide legislation as either initiated state statutes or initiated constitutional amendments. Citizens also can repeal legislation through the veto referendum process.

Secretary of State John Ashcroft and his staff put together a two-page summary overview of the initiative process in Missouri that is clear, concise, and helpful.¹ A petition is drafted before being submitted to the Secretary of State. Next, the petition goes to the Attorney General (“AG”) who has 10 days to approve the form of the petition prior to a 15-day public comment period. Meanwhile, the State Auditor’s Office (“SAO”) develops a fiscal note. After the AG and SAO finish their work, they submit the petition back to the Secretary of State who drafts ballot language before sending that back to the AG for approval. Lastly, the Secretary of State notifies the petitioner of approval to circulate and the signature gathering process begins.

As made clear, this process does very little to guarantee the education of voters about an initiative’s supporters or the full economic cost. Nor does it properly safeguard the integrity of these initiatives despite the massive stakes in altering state constitutional and statutory law.

Without reform, these provisions will likely become the left’s vehicle for the subversion of representative democracy in Missouri, despite their intention to empower the people of Missouri.

Count on more.

Initiative Integrity Reforms to Protect Missouri

Many states, including leaders like Florida, have protected themselves by implementing common-sense reforms to strengthen their initiative process and increase the integrity of direct democracy in their state.

The following reforms can provide Missouri the same kind of common-sense solutions. Together, they will safeguard the integrity of initiatives, protect conservative policy priorities, and defend the state legislature’s power to conduct deliberative, representative democracy.

Empower voters and legislators to understand and work through all the implications of an initiative, including cost

- *Require the true economic cost of the initiative to appear on the ballot by establishing an initiative economic impact committee.*

This provides voters with the same kind of estimated economic impact that legislators expect from non-partisan economists and fiscal agencies.

- *Create legal standing for citizens to file a lawsuit to block an initiative for vague language.*

Today, legal standing to sue is very difficult to establish in court to enforce legal requirements that initiatives not be vague. This empowers concerned voters to do so.

Enhance transparency so voters better understand who supports initiative efforts

- *Require the initiative sponsor hold a public hearing prior to the vote.*

Before casting their vote on critical initiatives, voters should have an opportunity to assess an initiative's sponsors in person and ask questions regarding motivation, costs and benefits, and implementation.

- *Require Secretary of State to maintain a publicly available database of registered petition circulators and the petition forms to each and require initiative sponsors to build an online searchable database of signatories.*

For the sake of maintaining initiative integrity and preventing fraud, citizens and media should have access of public records of individuals circulating petitions and the signatures of fellow voters supporting the initiative.

Increase requirements for signature gatherers to protect initiative integrity

- *Ban the pay-per-signature practice.*

By paying petition circulators by signature, out-of-state leftists build an operation that is high on collecting signatures quickly and low on ensuring integrity. This reform must be accompanied with an alternative payment model to avoid running afoul of the U.S. Supreme Court's decisions discussed below.

- *Require that circulators be a certified notary in the state, specially licensed to collect signatures, and obtain a signatories' photo ID and a third-party witness for each signature collected.*

These measures are critical to ensuring an initiative only makes it onto a ballot in Missouri when signatures have been collected from state residents who are who they say they are. For the same reason photo ID is useful to prevent fraud and ensure integrity on election day, photo IDs, should be required to sign petitions to put an initiative on the ballot in the first place. Notaries are best positioned to enforce this standard and protect the process.

Require initiatives to gather more widespread support

- *Require a 60 percent supermajority of the total number of voters in the last gubernatorial election to vote yes for the reform to advance.*

In making sweeping changes to a state's policy, a bare majority from a ballot initiative is too low a standard. A 60 percent supermajority should be required for bypassing the traditional power of the state legislature. A **Constitutional Amendment** would be required for this reform.

- *Require initial voter interest certification from 5% of voters in last gubernatorial for each county in the state before permitting signature gathering to begin.*

Often, initiatives are born out-of-state and midwived by a tiny band of organized leftists in a state's biggest urban area. Only once the initiative is on the ballot does the majority of a state's citizens even hear about it. This reform requires sponsors to gather minimal support from across the state before the more formal signature-gathering process can begin. A **Constitutional Amendment** would be required for this reform.

- *Require at least ten signatures to be collected from every local municipality for signature gathering effort to be successful and impose a maximum proportion of signatures gathered from St. Louis, Jackson, and St. Charles counties.*

Too often, initiative sponsors ram leftist priorities down the throats of conservative states by focusing exclusively on a state’s major urban areas, rather than building a truly inclusive, broad-based coalition. A **Constitutional Amendment** would be required for this reform.

- *Require circulators to be registered to vote in the state.*

If the purpose of ballot initiatives is to give concerned citizens an avenue for organizing their neighbors in a common effort, this reform protects that process from out-of-state hijacking. It also increases accountability, information, and engagement on initiatives by ensuring that citizens and potential signatories can identify and ask a local supporter more questions about the issue before they make a decision.

Summary of legal authority for these reforms

These reforms take power away from organized and well-funded elements of the left and put power back into the hands of state legislators and the citizens they represent. Of course, that means there will be opposition.

To defend against misleading legal claims and motivated reasoning, state legislators can empower themselves with enhanced knowledge about their authority for reform under federal and Missouri law.

For example, under Federal law, the Supreme Court has ruled that states cannot prohibit paid signature-collectors completely.² But multiple, subsequent lower court decisions have allowed states to prohibit *pay-per-signature* practices.³⁻⁴

The Supreme Court has made clear that, with sufficient evidence of necessity, “states have considerable leeway to protect the integrity and reliability of the ballot-initiative process” without running afoul of the US Constitution’s protections of speech and assembly.⁵ This includes measures geared toward integrity, transparency, and clarity.⁶

Conclusion

Without reform, voters in Missouri will continue to struggle with vague ballot initiatives that hide their true costs. Out-of-state billionaires will continue to pump millions of dollars to destructive, leftist policies like Medicaid expansion. The legislature’s power to set the policy agenda for Missouri will continue to erode.

And this will all continue to occur under the false pretense of democracy while Missouri’s policies become less and less representative of its people.

With these reforms, however, Missouri’s legislative leaders can begin to turn the tide and protect their states from the agenda of the radical left.

¹ <https://www.sos.mo.gov/CMSImages/Elections/Petitions/Two-PageIPProcessOverview.pdf>

² *Meyer v. Grant*, 486 U.S. 414



³ *Initiative & Referendum Inst. v. Jaeger*, 241 F.3d 614

⁴ *Person v. N.Y. State Bd. of Elections*, 467 F.3d 141

⁵ *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182

⁶ *Ibid.*