Campaign Spending Law & Politics for Constitutional Convention Referendums: A Case Study of Alaska

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Abstract

Fourteen U.S. state constitutions, including Alaska, require that at periodic intervals the people have the right to call a constitutional convention via a referendum. Alaska's period is every ten years, and its last such referendum was in 2022. Alaska's 2022 referendum illustrates certain latent tendencies of convention referendum law and politics, including severe collective action problems and corresponding campaign finance imbalances that have not been rectified by campaign finance disclosure laws. On a per capita basis, Alaska's convention referendum had the fourth highest combined "yes" and "no" contributions and highest "no" and dark money contributions among the 140 U.S. state ballot measures across 38 U.S. states in 2022. High spending by the "no" campaign continued even after the "no" campaign knew it was essentially assured of victory. Such spending may in part be designed to deter future "yes" campaigns in both Alaska and other states. Alaska's official election pamphlet, which may be viewed as a type of public financing of voter education, effectively opposed calling a convention after Alaska's Lt. Governor solicited a highly unpopular politician to write the "yes" statement. Alaska's 2022 convention referendum illustrates the different types of collective action problems that affect different types of ballot measures, including the different selective incentives for constitutional initiatives versus convention referendums. Fixing the voter education problem for convention referendums may best be accomplished via a new paradigm of voter education, such as one based on the use of citizen assemblies to provide an efficient and high-quality cue to voters.

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Introduction

Fourteen U.S. states have a constitutionally mandated periodic referendum on whether to call a constitutional convention. The periods range from ten to twenty years and on average there is at least one such referendum in the U.S. every two years. A convention, like the constitutional initiative, serves to bypass the legislature in proposing constitutional changes.

Despite the frequency and democratic importance of such referendums, minimal political science literature exists on the spending patterns and related collective action problems associated with their "yes" and "no" campaigns, and how these problems differ from other direct democracy ballot measures, including constitutional initiatives.[1] This case study of Alaska's 2022 periodic constitutional convention referendum seeks to rectify these omissions and point to alternative paths for U.S. state constitutional convention scholarly research and democratic reform.

[1] Not a single study of convention politics focuses on their campaign finance characteristics (E.g., see Benjamin 2001; Dinan 2010; 2022; Snider 2017; 2023; Lewis, Collens, and Cutler 2019; Blake and Anson 2020; Strickland 2022). Studies of ballot initiative politics, including detailed discussions of campaign finance, are orders of magnitude more numerous (Cronin 1989; Schmidt 1991; Briffault 1996; Bowler, Donovan, and Tolbert 1998; Broder 2000; Sabato, Larson, and Ernst 2001; Magleby 2001; Waters 2001; Garrett and Smith 2005; IDEA 2008; Gerber 2011; de Figueiredo, Chang, and Kousser 2011; Kang 2013; Heerwig and Shaw 2014; Matsusaka 2020).

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Convention Referendum Law & Politics 101

The constitutional convention referendum is part of a larger convention process that entails three public votes: 1) whether to call a convention (the vote that is the subject of the convention referendum), 2) if called, to elect delegates to a convention, and 3) if a convention makes any proposals for constitutional change, to vote its proposals up or down.

The primary contemporary democratic function of the periodic convention referendum, like the constitutional initiative available in 18 states, is to prevent the legislature from having monopoly initiation and proposal power over constitutional change. Initiation power is the power to initiate constitutional change, and proposal power is the power to propose constitutional change. The first two votes in the convention process described above function to bypass the legislature's power over the initiation and proposal of constitutional change.

For more than fifteen years I have been studying convention referendum politics closely as the editor of The State Constitutional Convention Clearinghouse[2] and state-specific clearinghouses that cover convention referendum campaigns when the referendum is shortly to be placed on the ballot.[3] This section describes patterns I have observed concerning early 21st Century convention referendum politics. I picked Alaska as a case study because it vividly illustrates many of them. Many of the patterns are latent in that they take a contested referendum where the "no" side fears losing for them to become apparent.

Convention Opponents Vs. Supporters. Convention referendum opponents seek to preserve the constitutional status quo; supporters to change it. The larger and more diverse is a coalition of supporters or opponents, the greater its claimed democratic legitimacy; that is, to represent the general public rather than special interests.

Opponents can be divided into five ideal types, which in practice often overlap:

1) **State legislatures**, which dislike the convention process because it is designed to bypass their monopoly proposal power over constitutional change. Albert Strum called them the natural enemies of conventions (1970, 88).
2) **Core interest groups.** which form the core of the "no" campaign's coalition.[4] Like legislatures, these groups are natural enemies of the convention process because they excel at influencing the legislative process and fear they won't be able to similarly dominate the convention process. Their tasks include organizing the "no" coalition (often done below the public radar) and providing, either directly or indirectly, the bulk of its funding. In recent decades, this coalition core has centered around economic interest

[2] See https://concon.info.
[3] https://RhodeIsland.concon.info, https://Alaska.concon.info, https://Missouri.concon.info, https://NewHampshire.concon.info, https://Iowa.concon.info, https://Hawii.concon.info, https://NewYork.concon.info, and https://maryland.concon.info.
[4] Cigler and Loomis distinguish between "core members," "players," and "peripheral members" in their categorization of interest group coalition members (1995, 249–55). A crucial distinguish is that the "no" coalition of concern here is seeking to preserve the status quo whereas the coalitions Cigler and Loomis describe are seeking to change the status quo.

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groups, notably government unions, that excel at rent-seeking[5] and overcoming collective action problems.[6] Although these groups thrive on a convention's democratic failings, they believe that they will be able to exercise more rent-seeking power over a legislature.[7]

3) **Political parties**, which tend to give veto power over their agenda to the natural enemies of the convention process, including incumbent legislators and valued rent-seeking interest groups that provide political parties with much-needed organization and money.
4) **Secondary interest groups**, which lack the financial and organizational muscle of the core coalition members and may depend on mutual back scratching coalitions with 1), 2), and 3) above to effectively pursue their core mission. Their core mission involves issues other than calling for a convention so that it's easy to trade convention opposition or neutrality for support of their core mission. Some secondary interest groups make notable efforts on behalf of the "no" coalition, especially as spokespeople. Others do no more than lend their name to the coalition.[8]

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[5] For economists, "rents are receipts in excess of opportunity cost… unnecessary payments that would not be required to attract resources to a particular employment." (Parker 1996, 14). Rent seeking describes "the activities involved in obtaining economic advantage through the political process…." (Parker 1996, 2). Note that the ordinary definition of "rent" in terms of payments to landlords has nothing to do with this definition.

[6] Both corporations and unions excel at overcoming collective action problems. In the case of unions, it is largely because both membership and dues are mandatory. In the case of corporations, stockholders gain financially from political activity and the corporations, often part of oligarchic industries, can join trade associations that excel at overcoming collective action problems (Barry 2012, 44–46).

[7] For a general discussion, see John Matsusaka (2020, 192–99). For an illustration with regard to a constitutional convention referendum, consider James Parisi's statement below. Parisi is a senior official with the Rhode Island Association of Teachers and Health Professionals and has played a key role organizing and funding Rhode Island's "no" coalitions in 2014 and 2024. His frank verbal public testimony on August 8, 2024 before Rhode Island's Constitutional Convention Bipartisan Preparatory Commission—of which two-thirds of the commissioners are incumbent legislators and the remaining third appointed by them—illustrates these incentives:

> "Our organization comes down firmly on the idea that we ought not to go down that road of having a constitutional convention. The primary reason is *Citizens United*, you know, the out-of-state unlimited money that could be spent. We have a healthy paranoia that our enemies will outspend us in significant ways, putting our members rights at issues…. So one of the possible positive developments that has been mentioned in the past couple of months is a constitutional right to an education legislative proposal that's been in the assembly the last couple of sessions, something we support, you know. We put in a letter of support of it. But what that looks like and how it's worded could have significant impact if there's a right to education proposal that puts our tenure rights at issue. All of a sudden, a positive turns into a very significant negative….Maybe the education provision would be amended to expand school choice, something that we worry about as a union of public school employees, where we oppose vouchers and tax credits and we hate to see a constitutional provision open the door more for that possibility. Many constitutional provisions around this country include Right to Work provisions… that's a real concern. And finally, because teacher union collective bargaining is such a high-profile issue and sometimes a political hot potato, we're concerned that a constitutional convention could negatively impact bargaining rights for public school teachers generally."

[8] A vivid illustration of the mutual backscratching politics of "no" coalition groups is the relationship between the teacher unions (the local chapters of the NEA and AFT) and the local chapter of Planned Parenthood. The teacher unions and Planned Parenthood are longtime political allies across many issues. In both Alaska and Rhode Island, a woman's right to choose was overwhelmingly supported in various public opinion surveys. This suggested that a constitutional proposal for popular ratification to restrict a woman's right-to-choose would have been overwhelmingly defeated whether proposed by legislature, initiative, or convention. Without saying so explicitly or even acknowledging that a convention could only propose, not pass, constitutional amendments, Planned Parenthood effectively took the politically implausible view that referendum voters could be hoodwinked to vote

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5) **Minority, rights-oriented interest groups**, which prefer to exercise their influence via litigation—that is, via the courts—rather than via either legislatures or conventions.

Although in recent decades unions, especially government unions, have been the primary financiers of and coalition builders for "no" campaigns, industries with unpopular subsidies or protections have also occasionally contributed to "no" campaigns (Snider 2017). Most business groups that take a position, such as chambers of commerce, seem to merely tell their members that they oppose a convention. This divergence in the apparent intensity of labor and business opposition to a convention may partly reflect that labor has greater incentives than business to pursue outside (focused on the grassroots and public opinion) as opposed to inside (focused on elites and policymakers) advocacy strategies. For example, a local chamber of commerce may find it more effective to influence a local newspaper publisher directly rather than publish opinion columns or place advocacy ads in that publisher's publication. The chamber's "inside" influence over the publisher stems from his regularly attending chamber meetings because chamber members are his core customers because they buy a large fraction of the commercial ads he sells. The point here, however, is merely one of degree between an inside and outside strategy because labor groups also often prefer to keep a low public profile, letting the secondary interest groups they ally with be their primary public face opposing a convention. A union advantage in pursuing an outside strategy compared to businesses is their massive membership, which gives them both a valuable grassroots political resource and more of a democratic patina when pursuing an outside strategy.

In overwhelmingly Democratic states such as Connecticut, Hawaii, and Rhode Island, where Democrats control the house, senate, and executive branches, the incentive for unions to join coalitions with business interests and conservatives appears less. The recent relative passivity of big business in opposing conventions is a striking departure from the late 19th and early 20th Century, when it was big businesses, such as the railroads and mining companies, that most consistently opposed conventions while labor organizations, which were then relatively weak and included no government unions, tended to support them, like they did the other legislative bypass mechanisms, the statutory and constitutional initiative.[9]

Convention opponents routinely join together in coalitions of groups. The same does not happen with convention supporters because in recent decades conventions have been predominantly supported by individuals, not groups. To the extent that "no" campaigns have coalitions, they have primarily been coalitions of individuals. Thus, the type of group-based typology used above for "no" coalitions will not work for "yes" coalitions.

Individual convention supporters may be divided into two categories: those seeking to bypass the legislature by pursuing public policies that are 1) popular, or 2) unpopular. Since convention

against their interests on a highly politically salient issue. Shortly before the election in both Alaska and Rhode Island, the "no" campaign sent mass mailers to voters claiming that a convention could endanger a woman's right-to-choose (Snider 2017; 2022).

[9] One watershed was the passage of the National Labor Relations Act in 1935, which granted private sector employees the right to organize as a union with collective bargaining rights, charge mandatory dues, and take collective action such as strike. Another watershed was granting government workers the right to unionize en masse during the second half of the 20th Century. By solving their collective action problems, these rights would give labor interests power over legislatures akin to business interests.

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supporters want to surround themselves with others pursuing what they believe are popular policies, those pursuing clearly unpopular policies will tend to be treated as outcasts. But they nevertheless take on an outsize importance because of the efforts of “no” coalitions to make them the face of their opponents.

Individual convention supporters have usually been motivated by one or more policy proposals that they believe are popular but that the legislature will not pass because of some type of democratic deficit such as partisan, special interest, or legislator incumbency bias.[10] When they do form groups, their leadership tries to avoid giving a prominent role to any individual who espouses an unpopular policy. In contrast, the “no” campaign will attempt to claim for the “yes” campaign individuals and groups that support a convention for highly unpopular causes. These individuals and groups do not have to actually exist; they may be latent; for example, it may be claimed that hypothetical future wealthy out-of-state interests will distort the convention process in undemocratic ways once a convention is called.

The Imbalance of “Yes” and “No” Campaign Resources. The primary financiers of “yes” campaigns have not only been individuals rather than groups but have contributed relatively small sums of money compared to the groups that contribute to “yes” campaigns. A proximate explanation for the contribution discrepancy would be that well-heeled individuals and groups generally expect a reasonable return on their advocacy investments and do not believe that a convention referendum can win. A deeper explanation would explore the collective action problems (Olson 1968; Barry 2012) faced by convention supporters, including the perceived power and bottomless pockets of “no” coalitions and the fear of making future enemies of politically powerful convention opponents on other issues where their help could be helpful. The distinction between the collective action attributes of “yes” vs. “no” campaigns are analogous to those of producers vs. consumer groups, where consumers suffer from much greater collective action problems than producers. For example, there are powerful groups to represent the interests of railroads (producers) but not railroad passengers (consumers). Other groups with weak interest group representation tend to be the poor, mentally ill, and children (Walker 1991, 2–3). A survey of interest groups found that 41%—mostly economic groups—could not even identify organized opposition (Walker 1991, 111). Often the government steps in to organize and represent these unrepresented groups (Walker 1991, 13), whereas the government tends to actively oppose the interests of disorganized convention supporters. From this perspective, there may be a gap in the interest group system for convention referendums like there is for so many other public policy issues. Moreover, the gap may be growing worse, partly because potential convention “yes” campaign advocates have become discouraged by decades of defeats and the forces opposing conventions have grown stronger for systemic reasons (Snider 2017; Dinan 2022).

In no case during the last twenty-year cycle of election referendums did a “yes” campaign outspend a “no” campaign. And when a “no” campaign fears losing, the discrepancy between “no” and “yes” campaigns can be extraordinarily large, as in Alaska in 2022.

[10] A contributing motivation may be a lower majority threshold to propose constitutional changes. To propose an amendment for popular ratification, legislatures usually require a supermajority threshold whereas conventions only an ordinary majority threshold,

The Public Face of "Yes" and "No" Advocates. The public faces of both "no" and "yes" campaigns tend to be different than their financiers. In the case of "no" campaigns, the public face is usually secondary interest groups that are relatively popular compared to incumbent legislators, government unions, and heavily regulated industries. The public face of "yes" campaigns is paradoxically often who the "no" campaigns has promoted to be the public face, which means the public face tends to be relatively unpopular individuals, groups, and causes—some of which like the free publicity.[11]

Although it is a widely known political strategy, whether for candidate or ballot measure campaigns, to portray one's opponents as extremists, the key point here is that the effectiveness of this strategy may depend on the opponents' relative resources. When both sides have comparable resources, this strategy tends to be less effective. The resource discrepancy between "no" and "yes" sides makes this a potentially much more effective strategy for the "no" side.

Ballot Initiatives vs. Convention Referendums. The politics of ballot initiatives and periodic convention referendums tend to have much in common. For example, legislatures and the most powerful special interest groups tend to oppose ballot initiatives. And when these interest groups spend far more than the "yes" side in opposing a ballot initiative (that is, protecting the status quo), they tend to be effective. A widely accepted observation in the ballot initiative campaign finance literature is that, all other things being equal, a dollar spent defending the status quo is more effective than a dollar spent proposing change (Lowenstein 1981; Dubois and Feeney 1998, 182–83; Lutz and Hug 2010, 50–53). But this theory is hard to test with convention referendums because in states with actively contested convention referendums, the "no" side in recent decades has invariably trounced the "yes" side in spending.

There are also some highly material differences between convention referendums and ballot initiatives.

The only way to get a ballot initiative on the ballot is to have a well-resourced entity do so. But a convention referendum is placed on the ballot regardless of whether there is a well-resourced entity willing to support it.

Ballot initiatives offer far greater selective incentives to "yes" advocates than convention referendums because they give the advocate much greater control of the process, including much less risk about what proposal will ultimately make it to the ballot for voter ratification.

Ballot initiatives, however expensive they might appear to be for meeting a required signature threshold, are a much less expensive mechanism than a convention for getting a particular proposal on the ballot. With the periodic convention referendum process, an advocate must not only try to win a "yes" vote against a well-resourced and highly motivated opposition vote for a convention referendum but also, even more expensive, identify and then win seats for dozens or hundreds of convention delegates who they hope will be sympathetic to their cause.

Illustrating the extent of these incentive differences, when given a choice between a ballot initiative and a convention referendum, interest groups have in recent decades always preferred

[11] See Snider, J.H., "Congrats to the anti-ConCon coalition: They've run a brilliant campaign," Juneau Empire, Nov. 1, 2022.

the ballot initiative. The consequence is that convention referendums as a way to bypass a legislature's monopoly power over initiating and proposing constitutional change are much more of a collective good than ballot initiatives.[12]

The Relationship Between Elite Disagreement and Collective Action Problems. The public heavily depends on elite disagreement, including partisan and interest group disagreement, to be educated about electoral decisions (Zaller 1992). As a result, the overwhelming group and elected official opposition to a convention makes opposing a convention appear like a consensus opinion among voters.

When elites disagree about issues and thus educate the public, they are in effect subsidizing the public's education on those issues. The absence of those subsidies further aggravates the general public's collective action problems.

Of course, this type of collective action analysis assumes that a convention referendum fulfills an important democratic function, which convention opponents usually dispute, arguing that a legislature can propose anything a convention can and at less cost and risk.

The Role of the Courts. Initiatives are subject to many laws that the convention process is not. One of the most noteworthy is single subject rules, which are noteworthy because they are so often used to attempt to disqualify an initiative. Since single subject rules tend to be ambiguous and interpreted inconsistently, this has given judges a major influence on the outcome of ballot initiatives. As Anne Campbell has argued, "the states' provisions for judicial review of single subject compliance have placed the judiciary at the center of the initiative process." (2001, 162) A proponent of a ballot initiative who wants to be successful must thus factor in the often-high cost and unpredictable outcome of litigation.

This consideration would appear to favor conventions over initiatives. But convention politics has, in practice, often had a major litigation component, although of a different nature. For example, even when warranted, the high cost of litigation often puts it out of the reach of most "yes" convention campaigns. Consequently, when the courts should be involved, such as in enforcing campaign finance rules, they have not been involved because nobody has been willing to bear the legal costs associated with enforcement. Similarly, when opponents bring litigation against a successful "yes" result, convention supporters have often had to rely on relatively unmotivated and incompetent public defenders to make their case.[13] Thus, the courts are major political actors for both initiatives and conventions, albeit in different ways.

Deterrence Effects. One of the most striking differences between convention referendums and ballot initiatives (or any other type of ballot measure) concerns the similarity, repetition, and

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[12] Note that national and state conventions involve very different political incentives, including collective action attributes. A national convention is likely much less of a public good than a state convention because rural states are given disproportionate strength, and they are predominantly Republican, which makes a national convention into an inherently partisan activity. The power of rural states at a national convention is because convention seats are allocated by state, not population. For state conventions, seats are allocated based on one-person, one-vote.

[13] See Boucher v. Bomhoff, 495 P.24 77 (1972) overturning Alaska's 1970 yes vote for a convention; Snider, J.H., "Alaska's Overturned 1970 Constitutional Convention Call," The Alaska State Constitutional Convention Clearinghouse; Snider, J.H., "State Constitutional Convention Was Hijacked In '96 — It May Happen Again," Civil Beat, April 30, 2018.

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long-term predictability of their provisions. That is, convention referendums uniquely occur at predictable and mandatory times indefinitely into the future both within and across states. The consequence is potential multi-referendum learning effects, deterrence effects, and economies of scale in convention referendum campaigns, including incentives for national coordination, that are usually missing from other forms of direct democracy, including ballot initiatives.

However, a subset of ballot initiatives shares similar traits, albeit perhaps not in the same extreme way. This includes issues such as marijuana legalization, abortion, and gun regulation that often have ballot initiatives incorporating similar proposals across multiple states. But such ballot initiatives tend to be self-terminating, especially if successful, whereas periodic convention referendums go on indefinitely and with the same referendum language. Still, national players with local allies tend to make a commitment to multiple referendums across both space and time.

During much of the 20th Century, the National Municipal League and to a lesser extent the League of Women Voters played such a national role for "yes" campaigns. But in recent decades, no comparable national "yes" campaign resource has existed, whereas "no" campaigns have benefitted from national players, most notably the two national teacher unions, the National Education Association (NEA) and American Federation of Teachers (AFT), which appear to have perfected a winning political strategy to be adopted with suitable modifications for local "no" campaigns.

The Winning Arguments. The ingredients of this multi-state, multi-period, well-tested winning strategy include opponents' focus on a convention's costs and risks with no countervailing acknowledgement of its purpose or benefits; their assertion that a convention would be as or more corrupt than a legislature; their promotion of unpopular people or groups as the face of convention advocates; their formation of a large coalition of mostly long-time, mutual backscratching allies but also strange bedfellows that perceive a convention as a threat to their interests; their promotion of the idea that a convention could propose and hoodwinked voters subsequently approve repealing highly popular rights currently protected by a state's constitution; their subtle linkage of America's national constitution with a state's constitution, so that voters' veneration of their national constitution will rub onto their state's constitution; their reminder to voters that previous generations of voters have considered the same referendum and, after due consideration, rejected it; and their efforts to undermine rather than strengthen the democratic aspects of the convention process, which they can then use to attack the process.[14]

Different, incompatible arguments may also be presented to different audiences; for example, members of the dominant political party in a state may be told not to risk a convention because that party can already get what it needs from the legislature; meanwhile, members of the minority party may be told not to risk a convention because it would be dominated by members

[14] For an excellent illustration of most of these arguments, see the comments of the leaders of Rhode Island Citizens for Responsible Government, the "no" coalition opposing calling a convention at Rhode Island's Nov. 5, 2024 referendum on whether to call a convention. The comments were made on August 8, 2024 at a public hearing of Rhode Island's Bi-Partisan Constitutional Convention Preparatory Commission. See https://capitoltvri.cablecast.tv/show/9497?site=1. Rhode Island's constitution mandates such a commission before the decennial convention referendum. The "no" coalition leaders were representatives from the Rhode Island AFL-CIO, The Rhode Island Federation of Teachers and Health Professionals, and the Rhode Island ACLU.

of the majority party. This same type of audience-specific, inconsistent argument can be applied to every politically salient issue. In other words, no matter whether one is a Democrat or Republican, is a liberal or conservative, or holds a position supported by either the majority or minority, one should oppose a convention for mutually inconsistent reasons.

Any interest group that fears losing a special protection in a state constitution, such as a pension, labor, environmental, or gun right's protection, is also ripe for audience-specific persuasion. For example, unions' messaging to their members but not the general public is full of such claims.

Campaign Finance Disclosure as a Voting Cue. It is widely recognized in the political science literature that voting cues to help voters cast an informed vote tend to be weaker for direct than representative democracy, partly because candidate elections benefit from the partisan cue (Lupia 1994; Garrett 2009, 16–21; Kang 2013, 1701). Disclosure of campaign spending is supposed to alleviate this problem, as disclosing the interests behind a campaign can reveal valuable information to voters. As the U.S. Supreme Court said in its First National Bank v. Bellotti 435 U.S. 765 (1978) opinion: "Identification of the source of advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected." (Cited in Dubois and Feeney 1998, 201) But this assumes that high quality disclosure rules exist and are effectively enforced. It also assumes that intermediaries, notably the press, analyze this information consistent with democratic norms and then prominently share their findings with the public. But these assumptions may not apply to convention referendums.

The informational value of disclosure may also be swamped by Machiavellian ad campaigns that assert the exact opposite of what the campaign finance disclosures reveals regarding the interest group basis, magnitude, and out-of-state location of campaign contributions. For example, "no" campaigns routinely invest in attack ads that claim a convention would be dominated by wealthy, out-of-state special interests, when it is the "no" campaigns rather than the "yes" campaigns that have demonstrated such expenditure patterns. And this may be done with little or no pushback from the press, which may receive lots of ad revenue from the "no" campaign but none from the "yes" campaign, which relies on free media to get its message out.

Perhaps "yes" campaigns would employ a similar Machiavellian strategy if they had the same imbalance of resources in their favor. But they do not.

Other types of "yes" and "no" ballot measure advertising may use the no campaign's Machiavellian information strategy less frequently because the resource imbalance between the two sides, which makes the strategy more effective, is less.

A Ballot Measure Campaign Typology. Todd Donovan et al. have developed a typology of interest group contests concerning ballot measures (Donovan et al. 1998, Chapter 4). The four-category typology is based on whether a campaign is seeking a "yes" or "no" vote and represents narrow or diffuse interests. "No" campaigns differ from "yes" campaigns in that it is much easier for narrow groups to defeat changes to the status quo than to change the status quo. Groups representing diffuse interests suffer from greater collective action problems than those representing narrow interests. Convention referendums fit in the box, what Donovan et al. label a "Type 2" contest, that has opponents with narrow interests defending the status quo and

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proponents with diffuse interests seeking change. Donovan et al. focus on ballot initiatives, but their point is general: For passing ballot measures, a Type 2 contest is the worst of the four boxes to be in because opponents not only suffer from fewer collective action problems but occupy the side that requires the fewest resources to win.

I would suggest dividing these Type 2 contests into four subtypes. On one axis are Type 2 contests where the "no" campaign consists of a single vs. a broad coalition of narrow interests (e.g., labor or business alone vs. labor and business in a coalition). Since the public depends on elite disagreement to understand issues (Zaller 1992), a broad coalition of narrow interests opposed to a convention provides a great informational advantage to a "no" campaign. On the other axis are Type 2 contests where the "yes" campaign for the average voter involves a simple, intuitive question vs. a complex, non-intuitive one. This ignorance, in turn, makes the public more dependent on elite cues.

With this refinement of Type 2 campaigns, we see that contemporary convention referendums fit in the worst of the four Type 2 subcategories; that is, a broad interest group facing severe collective action problems against an opponent with an exceptional ability to control the elite opinion on which the public relies to make political decisions.

Alaska's Spending Spree

Alaska's Nov. 8, 2022 constitutional convention referendum vividly illustrates the spending dynamics of periodic constitutional convention referendums when there is an actively contested referendum.[15]

In 2022, Alaska's convention referendum was one of 140 ballot measures on U.S. state ballots and had chart topping and near chart topping per capita expenditures, as discussed below. See Appendix for details. Surprisingly, a large fraction of that spending may best be explained not as a means to defeat the referendum, which was handily done by a 40% margin, but to deter future "yes" campaigns; that is, to preserve convention opponents' reputation for political invincibility, thus enabling the defeat of future convention referendums in Alaska and other states, without bearing the high cost of a fight.

In 2022, three states had a periodic constitutional convention referendum on the ballot: Alaska, Missouri, and New Hampshire. In both Missouri and New Hampshire, there were no active campaigns for or against calling for a convention. Accordingly, no campaign spending was reported to election authorities, and the referendums were defeated by wide margins.

In Alaska, in contrast, there were active campaigns, especially by the "no" side. The "no" campaign, dominated by Defend Our Constitution, raised $4,793,928.68;[16] and the "yes"

[15] Most convention referendums are not actively contested and have no reported expenditures. Active no campaigns emerge only when the no side fears that voters might approve a convention referendum.
[16] See "No on 1 Defend Our Constitution Independent Expenditures Form 15-6," Alaska Public Offices Commission, Nov. 9, 2022.

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campaign, dominated by ConventionYes!, $61,607.[17] This resulted in a total per capita raised of $6.62.

The top four contributors to the no campaign, all national organizations based in DC, were the Sixteen Thirty Fund ($3,232,700), National Education Association (NEA; $500,000), American Federation of State County & Municipal Employees ($250,000), and American Federation of Teachers (AFT; $150,000). The next five largest contributors contributed $50,000 each: one national group (the International Brotherhood of Electrical Workers), three local groups (NEA-Alaska, Supervisory Unit Local 4900, and the Alaska Progressive Donor Table), and one local individual (a corporate CEO). The Sixteen Thirty Fund, which was responsible for 67.4% of the total contributions, is a "dark money" group because its contributors are not publicly disclosed.[18]

Oil and gas interests were strongly opposed to a convention but did not directly contribute money or take a public position.[19] Their interests were represented more indirectly, such as via an op-ed published in multiple newspapers by Frank Murkowski,[20] a former governor and chair of the U.S. Senate Energy and Natural Resources Committee,[21] and in local Chamber of Commerce resolutions in Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, and Prince of Wales, that opposed a convention without citing individual members' positions.

The top four contributors to ConventionYes!, all individuals, contributed $26,000, with the largest single donor contributing $10,000. The top individual contributor to Defend Our Constitution, made by a corporate leader, was for $50,000, five times the size of the largest individual contribution to ConventionYes!.[22]

Among the 38 states with a total of 140 ballot measures on a statewide ballot in 2022,[23] the

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[17] The figure used here for total contributions is from the No on 1 Defend Our Constitution independent expenditures report submitted to the Alaska Public Offices Commission on Nov. 9, 2022 (see https://web.archive.org/web/20221228193809/https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=5904&ViewType=IE). That figure is $4,793,928.68. Open Secrets reported a total of $4,639,033 (see https://www.opensecrets.org/ballot-measures/AK/2022/summary) but apparently didn't include $100,125 included on the Nov. 9, 2022. In its last report date Nov. 29, 2023, No on 1 Defend Our Constitution reported final figures for both contributions and expenditures of $4,543,994.88 (see https://web.archive.org/web/20240819052542/https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=41153&ViewType=CD). This included a refund to the Sixteen Thirty Fund of $250,000.

[18] "Defend Our Constitution Top Doners," OpenSecrets.org, accessed Aug. 1, 2024.

[19] The Alaska Miners Association issued an undated resolution: "Alaska's Miners Association Statement in Opposition to Constitutional Convention," accessed Aug. 1, 2024. The Council of Alaska Producers, which also represents the mining industry, also opposed a convention.

[20] Murkowski, Frank, "If it ain't broke, don't fix it," Frontiersman, Sept. 6, 2022. Murkowski's letter was also read at an Oct. 20, 2022 Resource Development Council breakfast discussion on holding a constitutional convention, where the risks to the oil & gas industry were highlighted.

[21] "Senate Energy and Natural Resources Committee 106th Congress," OpenSecrets.org, accessed Aug. 1, 2024.

[22] "ConventionYes:Top Doners," OpenSecrets.org, accessed Aug. 1, 2024.

[23] See "2022 ballot measures," Ballotpedia for the voting records of the 140 referendums. See "2022 ballot measures," OpenSecrets.org for the campaign finance information. The two databases reported different totals for the number of ballot measures. I use the lower Ballotpedia count of 140. Where OpenSecrets.org and the Alaska Public Offices Commission differed, I chose the APOC data. Note that the OpenSecrets.org database occasionally treats different ballot measures on the same ballot as identical for campaign finance reporting purposes because the money raised for the different ballot measures cannot be distinguished. For its 2022 ballot measure data, this identical reporting occurred for six measures in Colorado and three in Arizona.

Alaska referendum had the fourth highest combined "yes" and "no" contributions and highest "no" and dark money contributions.[24]

For a Type 2 referendum where "no" dollars exceed "yes" dollars, it was also remarkable in the difference between the "yes" and "no" contributions. In absolute terms, this amounted to $6.45/person, which is the per capita difference between the "yes" and "no" contributions. In terms of a ratio, it was a 78:1 ratio of no-to-yes dollars. These discrepancies arguably reflected the extent to which "no" dollars represented interests with narrow interests (often called "concentrated benefits") and "yes" dollars interests with dispersed costs (often called "concentrated costs"), which is another way of saying that the referendum's politics may have had severe collective action problems.[25] The concentrated benefits refer to the benefits of the status quo for entrenched elites, which by definition only include a small fraction of the overall public. The dispersed costs refer to the costs of that entrenchment to the public.

The use of a ratio can be a vivid way to illustrate the spending imbalance between "yes" and "no" campaigns but because some "yes" campaigns spend zero or close to zero, it can lead to non-sensical results. Thus, I suggest quantifying spending imbalances primarily as the difference in per capita expenditures by the "yes" and "no" campaigns, which was $6.45 in this case.

The $6.45 per capita figure should be interpreted as merely an approximation of the "no" campaign's financial advantage. For example, a widely accepted finding in the campaign finance literature is that a dollar spent opposing rather than supporting a ballot initiative is much more efficient in influencing the public (Bowler, Donovan, and Tolbert 1998, Chapters 5 and 7; Lowenstein 1981). In the words of Susan Banducci: "opponent spending, dollar for dollar, has a much greater impact on votes than proponent spending." (Banducci, Susan A. 1998, 129) It seems reasonable to assume that if this relationship occurs with ballot initiatives, it will also occur with convention referendums. If so, this type of one-sided spending, all other things being equal, gives monied interests seeking to preserve their veto power an advantage over those seeking to support change, which implies the $6.45 per capita advantage would understate the "no" side's money advantage if a normalization factor was used to adjust the efficiency of "no" vs. "yes" dollars.

Similarly, the $6.45 per capita figure should mostly be conceived as covering paid media and contractors more generally, where third parties receive payment for campaign services. Excluded

[24] The total "no" contributions per capita was $6.54; the Sixteen Thirty Fund dark money contributions per capita was $4.41. Most of the 140 ballot measures reported zero expenditures for either the "yes" and "no" side.
Both the larges amount raised per capita on either a "yes" or "no" campaign and the only other campaign to spend more than $4.41 on a "no" campaign was a California initiative to legalize online and mobile sports betting. For that ballot measure, both "yes" and "no" side advocates had concentrated benefits: the "yes" side to break into lucrative new gambling markets and "no" side to maintain its exclusive gambling franchises. Its total per capita raised was $10.30, consisting of $4.29 on the "yes" side plus $6.01 on the "no" side. This resulted in a difference of "yes" and "no" contributions of $1.72, which made Alaska's referendum imbalance 375% ($6.45/$1.72) on a per capita basis. Both the "yes" and "no" sides identified the industry sources of their contributions. The California referendum's relatively close magnitude of contributions on both the "yes" and "no" sides resulted in a classic ballot measure information arms race, with the "no" side ultimately out contributing the "yes" side 1.4 to 1 and winning. See "California Proposition 027: Legalizes Online and Mobile Sports Betting," OpenSecrets.org, accessed Aug. 1, 2024.
[25] But it is important to note that only sixteen of the 140 ballot measures had had the Type 2 characteristic that "no" costs that exceeded "yes" costs.

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are intra-organizational expenditures that disproportionately benefited the "no" campaign, thus also understating the "no" side's money advantage. For example, paid union staff from both national and local unions devoted to helping Defend Our Constitution's campaign were not disclosed on Defend Our Constitution's campaign finance reports. ConventionYes!, which lacked backers with a large organization and internal political advocacy resources, could not benefit from this reporting exemption. Hence, "no" campaigns such as Defend Our Constitution may systematically underreport their actual advocacy expenditures in comparison to "yes" campaigns, such as ConventionYes!, even when both sides are fully complying with the law's reporting requirements. New York's NYSUT, a union of unions with more than 700,000 dues paying members and internal staff for polling, focus groups, convention research, and media (including social media, newsletters, and magazines) directed at its members, may best illustrate the extent to which internal unreported organizational expenses may contribute to a campaign. Communications distributed to members, such as yard signs, handbills, and buttons, also need not be reported.

It is possible that "yes" campaigns could compensate for unreported internal organization expenditures by having more volunteer labor, which also does not need to be reported. But I have seen no evidence of this in any state I've covered during the last fourteen years. The unions that form the core of the opposition, and they include at least several percent of a state's total population, are extremely well organized, and can activate their volunteer members if they are worried about losing. This may have played less of a factor in Alaska, with its vast distances and low population density. But in New York in 2017, the unions distributed some 300,000-yard signs to their members, which placed them on a large fraction of the streets (presumably their own front lawns) throughout the entire state. Members also were given countless buttons to wear and handbills to distribute door-to-door.

Campaign finance laws also stipulate a minimum, not a maximum, for campaign disclosure. Thus, if one side wants to maximize its reported expenditures and the other side wants to minimize them, this can distort the ratio of "yes" to "no" expenditures. I saw no evidence of this in Alaska but evidence of it in New York in 2017 involving the treatment of in-kind and intra-organizational expenditures.

The incentive for this asymmetric reporting behavior probably stems from reporters' occasional use of campaign expenditures to help them frame and identify sources for their articles. Given that partisan cues and registered candidates are not available to reporters covering convention referendums, campaign contributions can take on a greater role in helping them identify sources and frame coverage. According to this reasoning, the larger one's contribution, the greater one's potential importance as a source. Thus, individuals who want their views cited in the mainstream press may have an incentive to include every plausible expenditure they can, such as the rental value of their multi-purpose office space, the claimed value of their time advocating for a "yes" vote, and their transportation costs to any event plausibly related to a yes vote. In contrast, unions and corporations that are relatively unpopular have an incentive to minimize their reported expenditures, such as for the type of internal organization expenses described above for NYSUT.

Laundering money through another group may also be an effective way to shield influence (Garrett and Smith 2005, 314). I saw no evidence of this in Alaska but substantial evidence of it in Rhode Island. For example, Rhode Island unions year-in-and-year-out provide general support to Rhode Island's ACLU; for example, by taking full-page ads in the ACLU's annual dinner program. This type of relationship building contributions do not have to be reported (Garrett and Smith 2005, 307). But one reason they were presumably given is that the unions know that every decade the Rhode Island ACLU will come out strongly against calling a convention, be one of the leading faces of the "no" campaign, and support the "no" campaign's majoritarian talking points even when inconsistent with its own mission and arguments on other policy issues. Sometimes the indirect influence is much subtler and does not directly involve money, as in New York State where the League of Women Voters is materially dependent on public school teachers' support to recruit its next generation of members.

Lastly, the quality of campaign staff available to "yes" and "no" convention referendum campaigns may make a difference. Most experienced and highly talented direct democracy political talent tends to work for the "no" side. This is due to a number of factors, including higher pay, more consistent work opportunities, opportunities to work in teams with highly specialized team members, and affiliation with national organizations that have many direct democracy advocacy needs. There is also more accountability, as poor performers are not retained—an option not available to campaigns that must rely on lowly paid or volunteer labor. There is also occupational risk in alienating the powerful political actors on the "no" side, including incumbent legislators and the most powerful interest groups, because one might need those actors in the future in order to be politically effective on behalf of future clients.

Deterrence as a Spending Motive

Another remarkable feature of Alaska's 2022 constitutional convention referendum was its combination of lopsided spending between the "no" and "yes" campaigns with a lopsided win by the high expenditure side. Although it is not unusual to have lopsided "yes" and "no" spending in ballot measure information campaigns, it is unusual to have such a lopsided spending pattern with a blowout win or defeat, such as occurred in Alaska. That's because a lopsided expenditure on the winning side combined with a lop-sided win indicates that the winning side wasted dollars (de Figueiredo 2005, 1067). This economic logic would suggest that Defend Our Constitution's lopsided win was highly wasteful.[26]

But what was the goal of the spending spree by Defend Our Constitution? The above economic logic only applies if the goal was to win the current election. If winning only the current election was its goal, it could indeed have done that by spending much less, as reflected in the final vote on the convention referendum: 29.6% for and 70.4% against.

[26] A good measure of this would be to take the per capital difference in expenditures between the "yes" and "no" side described in the previous section and then multiply this by the difference in the percentage win between the "yes" and "no" side. The lower the resulting number, the more efficient the dollars spent by the winning side. By this measure, the spending in Alaska would be off-the-charts high, as the $6.45 per capita figure would be multiplied by 40 (70% -30% = 40%) to arrive at a chart-topping 258 indicator, which is 235% higher than the next closest, 110, for the chart-topping California gaming ballot initiative mentioned above.

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Defend Our Constitution hired one of Alaska's top pollsters, Dittman Research,[27] which told it on Oct. 25 that it had a 65% to 28% lead with only 7% undecided. Nevertheless, after Oct. 25, Defend Our Constitution spent $1.45 million, excluding refundable media buys for that period made before Oct. 25. Throughout the fall, the "no" campaign was ahead in the polls, although undecideds, if they had overwhelmingly shifted to support, could have made up the difference until the Oct. 25 poll. As of the "Thirty Day Report" (the campaign finance report due 30 days before an election), Defend Our Constitution reported that through Oct. 7 it had only raised $2.76 million and spent only $1.82 million, the latter only 39% of its final tally and including future scheduled media.

Since conventional wisdom for ballot measures dictates not "to pile money on a measure already headed for victory," (de Figueiredo, Chang, and Kousser 2011, 9) much of the money spent after Oct 7 may have functioned to deter future "yes" campaigns in not only Alaska but the other 13 states with the periodic constitutional convention referendum. If so, the message to future potential "yes" supporters was: "You will never beat a 'no' campaign, so don't even try."

While this type of multi-election deterrence reasoning has been common in the campaign finance literature on candidate elections, where incumbent candidates build up war chests to deter challengers in future elections, it has been rare in the campaign finance literature dealing with referendums. One reason might be that periodic constitutional convention referendums are unusual in that they reoccur with constitutionally specified predictability and across more than a dozen states. For example, from 2017 through 2034, at least one such referendum is on a state ballot every two years. Thus, a successful campaign to deter a referendum in one state can pay predictable dividends in the future not only for that state but many other states.

Although not the multi-election (both in-state and out-of-state) referendum deterrence effects focused on here, there may also be deterrence effects within one referendum in one state. For example, Defend Our Constitution's shock and awe spending spree discouraged some ConventionYes! leaders during the final month before the referendum, leading them to shift their focus to personal matters or candidate campaigns where they could still make a difference in the outcome.

Having the same national organizations behind "no" campaigns across states and election cycles supports the future election deterrence hypothesis. In states with "no" campaigns in recent decades, government unions affiliated with either the National Education Association (NEA) or American Federation of Teachers (AFT) have been their primary early organizers and financiers. Which teachers union is dominant depends on which union has the most members in a particular state. While much of the organizing and financing has been done by local affiliates, the affiliates consult with their parent organizations who have developed time-tested winning strategies for conducting such campaigns. The affiliates also know that if they are worried about losing in the weeks before a referendum, the NEA has a special fund for ballot measures with tens of millions of dollars of cash-on-hand to help them out.

[27] Downing, Suzanne, "Dittman Research for the win again, predicting all races correctly," Must Read Alaska, Nov. 12, 2022.

In Alaska, the largest declared contributor to the "no" campaign was the NEA. The largest dark money group behind the "no" campaign, the Sixteen Thirty Fund,[28] which contributed seven times as much as the NEA, was run by a former NEA operative, Amy Kurtz, who had helped orchestrate similar ballot referendum campaigns for the NEA.[29]

A consistent track record of big wins for "no" campaigns is highly valuable because it is rare for an activist or politician to seek to expend effort and political capital on a doomed cause. This includes democratic reform groups, who will rarely take on losing issues, partly because a reputation for winning is so valuable with potential funders, volunteers, and allies. As the former head of a state yes campaign confided to me: "I do not have any motivation to stay involved because batting one's head against a stone wall hurts." RepresentUS, one of the largest grassroots democratic reform groups in the United States, characterizes itself as a "winning machine," routinely reports on its "wins for the people," and tells its supporters that "each win [is] only possible because of the partnership and support of people like you."[30] Even if prominent democratic reformers think a constitutional convention might be the only viable democratic reform mechanism in a state without the constitutional initiative (for example, to implement a genuinely independent redistricting commission, statewide ranked-choice voting, or legislative term limits), they still won't lift a finger to call one if it means wasting organizational resources while taking on and angering powerful political actors while being certain of losing (E.g., Garrett and Smith 2005, 303).

For national organizations that are long-term, "no" campaign players, establishing deterrence in a small state such as Alaska may be a bargain because doing so in states with a population more than ten times as large, such as Illinois, Michigan, New York, or Ohio, would be vastly more expensive. It's like a superpower attempting to deter a much costlier war with another superpower by showing it can and will do whatever is necessary to win in a battle with a minor

[28] The Sixteen Thirty Fund is one of a half dozen nonprofit funds, "The Arabella network," administered by Arabella Advisors LLC, a for-profit company. The network is designed to shield donors from public scrutiny. Outside contributions can be routed through as many as three Arabella funds before exiting the network, which helps hide the source of money. Much of the network's money ends up in "pop-up" organizations, organizations that disappear after a single election cycle and thus cannot be held meaningfully accountable for campaign finance violations. Arabella Advisors advocates on behalf of a portfolio of liberal causes like the Koch brothers does for conservative causes. The Sixteen Thirty Fund received $189,979,327 in contributions during 2022. See its 2022 Form 990.

[29] This suggests, at a minimum, close coordination between the NEA and that dark money fund as well as a likely more direct money link. The NEA is relatively unpopular in a Republican state such as Alaska, and out-of-state ballot measure contributions tend to be unpopular in all states regardless of a voter's party affiliation. Thus, it would also have a political incentive to hide the extent of its involvement so as not to provide a voting cue to voters damaging to its interests. Amy Kurtz, president of the Sixteen Thirty Fund, was the former manager of the NEA's Advocacy Fund in the NEA's Campaigns and Elections Division. See "Amy Kurtz," Influence Watch, accessed Aug. 1, 2024. In 2022, the NEA Advocacy Fund spent $29,720,764 on advocacy. See "PAC Profile: NEA Advocacy Fund 2022 Election Cycle," OpenSecrets.org. The Sixteen Thirty Fund's highest paid employee was Project Director Ryan Johnson, who was previously executive director of The Fairness Project, a labor-union backed advocacy organization focused on ballot initiatives. See "Fairness Project,"Influence Watch, access August 1, 2024 and Sixteen Thirty Fund 2022 Form 990, p. 8. For profiles of the Sixteen Thirty Fund, see Massoglia, Anna, "Liberal 'dark money' groups' revenue soared ahead of 2020 elections," OpenSecrets.org, Dec. 23, 2021; "Sixteen Thirty Fund (1630 Fund)," Influence Watch; Green, Emma, "The Massive Progressive Dark-Money Group You've Never Heard Of," The Atlantic, Nov. 2, 2021.

[30] E.g., see RepresentUs emails to supporters dated Nov. 14, 2022, August 23, 2022, and Dec. 23, 2021. See also Represent.US's "10 Year Anniversary Report," August 2022, which includes 61 "win" claims.

power. According to the 2020 U.S. Census, Alaska's population is 733,391, making it the third smallest U.S. state by population and the smallest with the periodic constitutional convention referendum.[31]

Alaska promised to break the national "no" players' reputation for invincibility because the "yes" side had an issue, the Permanent Fund dividend, capable of mobilizing popular support without a large bankroll. An Alaskan statute requires that every citizen every year receive a "dividend" from the government from the Permanent Fund, which is funded by taxes on Alaskan oil revenue. In the years leading up to the 2022 referendum, the legislature had diverted that dividend to paying for government services. Consequently, Republican lawmakers sought to mandate the dividend as an amendment to Alaska's Constitution. Despite the popularity of the dividend, lawmakers could not get the two-thirds vote in the legislature to propose a constitutional amendment, so some influential political figures backed calling a convention to bypass the legislature. Alaska's government unions strenuously opposed constitutional efforts to protect the Permanent Fund dividend because oil revenues paid for state services, including their members' compensation.

Thus, Defend Our Constitution initially had good reason to fear losing the convention referendum. But after pulling ahead by double-digit percentages in October, it kept its foot on the money pedal rather than coasting to victory. It may simply have been risk-averse, as election forecasting is a highly imprecise science. Or, it might not have been cost sensitive because it already had the campaign funding in hand. But it is also possible that a contributing factor was the opportunity to teach future potential "yes" campaigners a lesson. If so, it may have sought deterrence like the Roman general who famously defeated a slave rebellion and then crucified thousands of the defeated slaves alongside a high-traffic road to advertise the power of Rome and thus deter future would-be slave rebellions.

The Failure of Campaign Finance Disclosure as a Voting Cue

Alaska's constitutional convention spending spree illustrates the failure of America's one-size-fits-all campaign finance legal regime for ballot measures, which is based on disclosure. Let us label the current ballot measure campaign finance regulatory regime that does not include spending or expenditure limits "Deregulate and Disclose" (Briffault 2010, 286). This campaign finance theory is based on the premise that there exists a viable marketplace of ideas so that disclosure of campaign contributors will be sufficient to ensure a reasonable degree of democratic accountability.[32]

For Deregulate and Disclose to work reasonably well, it is generally assumed that the news media will report to voters not only material campaign finance disclosures but through the prism of widespread democratic norms. But this dual assumption may be faulty.

[31] "2020 Population and Housing State Data," U.S. Census Bureau.
[32] For example, Human Life of Wash. Inc. v. Brumsickle, 624 F.3d 990, 1008 (9th •Cir. 2010) explained that disclosure can "provid[e] the voting public with the information with which to assess the various messages vying for their attention in the marketplace of ideas." (Cited in Heerwig and Shaw 2014, 1461)

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Voting Cues

For voters to be adequately informed on a cost-effective basis, they must rely on voting cues, which are cost-effective shortcuts to becoming informed. For ballot measures, one of the most important cues is campaign finance disclosures revealing which interests back a "yes" or "no" campaign. Advocates for campaign finance disclosure often consider certain types of funding sources to be undemocratic red flags for voters, including funding from narrow economic interest groups, dark money, out-of-state money, disproportionate funding from one side, and super-sized contributions by individuals (Foley 1994). This corresponds to public opinion surveys, which indicate that the public thinks economic interests and special interests more generally have too much power in the political process (Cerda, Andy and Daniller 2023).

Alaska's 2022 convention referendum campaign illustrates that the campaign finance disclosures had minimal impact on the election. One reason is that they were not disclosed in a user-friendly database. But that problem is shared by all ballot measures in Alaska and, in any case, few voters can be expected to use such a database directly, regardless of how user-friendly it is. Since the disclosure system is not designed for direct access by voters, what is more interesting is that the leading media in Alaska failed to analyze the disclosures using the widespread democratic norms described above.

An exceptional twist is that the campaign funding normative framework that Defend Our Constitution used to attack the "yes" campaign not only endorsed the democratic norms described above but used them to attack the convention process. The motto that "a good offense is the best defense" may capture part of the political logic behind this strategy. That is, in a low information environment, the best way to defend against your weaknesses may be to charge your opponents with those weaknesses.

The Normative Framework Endorsed by Defend Our Democracy

Defend Our Constitution alleged that special, out-of-state, and dark money interests would have excessive influence over the convention process, including its second and third stages: the election of convention delegates, and the public's voting up or down each convention-proposed constitutional amendment. For example, its website FAQ stated: "A convention would bring an unprecedented amount of outside special interest groups and dark money to change Alaska's laws to promote their own agendas." With more chutzpah, one of its debaters wrote: "outside interests are pouring millions in unlimited dark money into an effort to turn Alaska into a civic guinea pig. They want to shred and rewrite Alaska's founding document and start over again with a boot on the neck of your personal privacy, natural resources, Permanent Fund dividend, schools, the judiciary, civil rights and liberties."[33] Dozens of social media posts focused on the special interest danger, including these two:

[33] Bakalar, Libby, "Why saying 'no' to a constitutional convention is the most important vote you'll cast this November," Anchorage Daily News, July 18, 2022.

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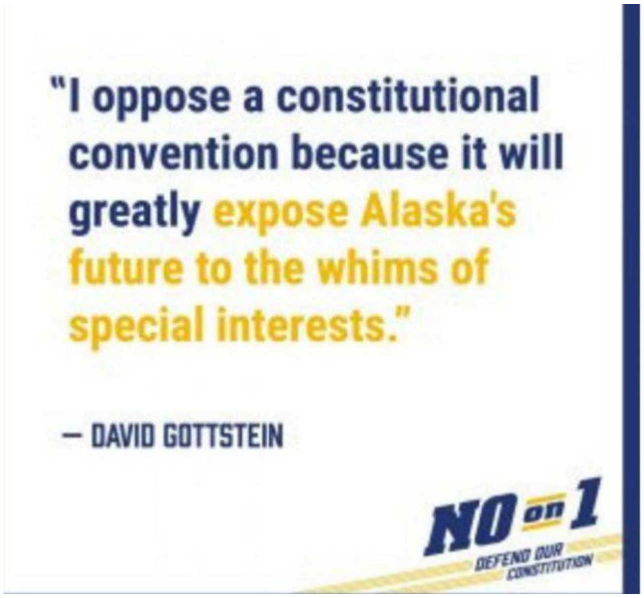

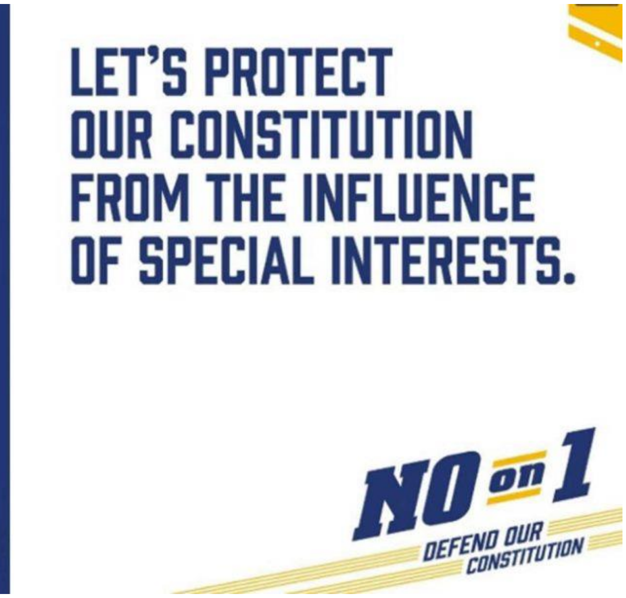

Defend Our Constitution used such arguments to attack the convention process because disproportionate influence by any interest group is politically unpopular, as it violates the core democratic principle of political equality. Indeed, the primary democratic rationale for campaign finance disclosure is to alert the public to such disproportionate influence. Accordingly, Defend Our Constitution never promoted its own group contributors and fundraising advantage in its advertising and free media campaigns. Nor did it explain why, if a convention would be so helpful to such groups, ConventionYes!, unlike Defend Our Constitution, failed to receive money from them. Nor did it publicize ConventionYes!'s funding sources, presumably because ConventionYes! only received funding from individuals in relatively small amounts – a much more popular type of funding than what it received.

Defend Our Constitution's arguments were hypocritical. But that's not an objection to a campaign finance regulatory model based on disclosure, which only requires that ConventionYes! have an incentive to counter the Defend Our Constitution information. Since ConventionYes! had virtually no money for paid advertising, this meant that it would have to rely on free media to publicize these campaign finance disclosures. But the mainstream media had other priorities.

Coverage by the Anchorage Daily News

Coverage of the convention referendum by the Anchorage Daily News (ADN), Alaska's most influential newspaper measured by circulation,[34] illustrates Deregulate and Disclose's failure. ADN treated the campaign finance disclosures as incidental information. The Anchorage Daily News is owned by the Binkley group, which also owns five other smaller newspapers in Alaska.[35] The company was started by John Binkley, who served as a Republican in the Alaska

[34] Contact Us, Anchorage Daily News, accessed on Nov. 4, 2022.
[35] Hsieh, Jeremy, ADN owners buy 3 more Alaska newspapers, KTOO, April 6, 2019.

House of Representatives and Senate and in 2020 was chair of Alaska's non-partisan redistricting board.[36]

ADN's editorial page strongly opposed calling a convention. In January 2022, it briefly ridiculed the idea,[37] then in late October 2022 ridiculed the idea again, mimicking Defend Our Constitution's talking points.[38] On its op-ed pages, it ran ten op-eds opposed and three for, with its first eight op-eds all opposed despite multiple "yes" submissions and many of the "no" op-eds highly repetitious. For letters-to-the-editor, it ran 17 opposed and four in favor.

Most visible and thus presumably influential was ADN's news coverage. It ran nine news articles on the referendum. Only one mentioned – and only in passing – the expensive ads the "no" campaign was running in Alaskan media outlets, including ADN. Four of the articles covered the total amounts raised respectively by the "no" and "yes" campaigns. But no serious attempt was made to explain in terms of widespread democratic norms why the campaign finance disclosures might be of material significance to the public.

ADN's first article about both sides praised the "no" campaign as "well established and well-funded" in comparison to the "yes" campaign, while also burying the campaign finance disclosures at the bottom of a long article.[39] Its second article noted the flood of outside money but then quoted the "no" campaign spokesman as saying the risk of outside money would be even greater for a convention, as Alaska could be turned into "a playground for outside groups."[40] Its third, like its first, buried the disclosure numbers near the end of a long article.[41] Its last, which ran 12 days before the election and thus missed about half the final expenditures and contributions, opened with the campaign finance disclosures but then suggested that despite the large discrepancy in amount raised by the "yes" and "no" campaigns, the amounts involved were actually small: "Overall spending on the campaigns has been notably sparse compared to ballot initiatives in prior election cycles. And the convention debate has been somewhat drowned out, partly by the millions of dollars being spent on other high-profile state races in Alaska this year."[42]

Why did ADN downplay the campaign finance disclosures? The lack of early coverage is easy to explain. When Defend Our Constitution launched in early December 2021 and got lots of free publicity, no campaign finance disclosures existed to report. Later, after the early campaign finance contributors were reported, contributors were overwhelmingly either individuals or Defend Our Constitution's later-to-be-reported vendors, the latter of whom not only contributed

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[36] Downing, Suzanne, Anchorage Daily News hemorrhaging cash, will reduce print to twice weekly and cut staff, Must Read Alaska, April 11, 2024. John Binkley, Wikipedia, accessed June 21, 2024.
[37] "What the Alaska Legislature will accomplish this year — and what it should," Anchorage Daily News, January 15, 2022.
[38] "Does Alaska need a constitutional convention?," Anchorage Daily News, Oct. 22, 2022.
[39] Brooks, James," Alaska conservatives launch group to encourage 'yes' vote on constitutional convention," Anchorage Daily News, Aug. 9, 2022.
[40],Maguire, Sean, "Advocates say a constitutional convention could end gridlock in Juneau. Opponents say it would open a 'Pandora's box," Anchorage Daily News, Sept. 25, 2022.
[41] Maguire, Sean, "Gov. Dunleavy says he will vote 'yes' for a constitutional convention in November," Anchorage Daily News, Oct. 11, 2022.
[42] Maguire, Sean, "Overshadowed by statewide races, the campaign for and against an Alaska constitutional convention enters its final days," Anchorage Daily News, Oct. 27, 2022.

to the campaign but incurred debts on behalf of it, presumably so that controversial group contributors need not be reported.[43]

ADN's pattern of issue-based coverage established early on did not substantially change after the campaign finance numbers became available. One factor that may have affected ADN's coverage was advertising, as local newspapers dislike alienating major advertisers (Bagdikian 2000). Defend Our Constitution was a substantial advertiser whereas ConventionYes! had essentially no paid media budget. Similarly, the local Chamber of Commerce, whose members are ADN's most important local advertisers,[44] opposed calling a convention.[45] Another factor may have been the sources on the regular beat that political reporters rely upon for efficient news gathering. These elite sources may have had a shared interest, regardless of party affiliation, in opposing a convention. When reporters early on asked them what a convention was about, it was in these sources' interest to cast a convention's agenda and supporters as extremist and unpopular. Another factor may be readers' lack of interest in campaign finance disclosure. As Abby Wood asks: "Political journalists work hard to distill the information for public consumption, but is anyone paying attention?" (Wood 2017, 13)

Regardless of the specific factors that may have caused ADN's limited campaign finance coverage of the "yes" and "no" referendum campaigns, the problem appears to go well beyond ADN. As Raymond LaRaja concludes from his research, his data "do not inspire confidence that voters learn a lot about money in politics at the state level through the printed press." (2007, 242; see also Carpenter 2009, 578)

The Anti-Convention Bias of Alaska's Official Election Pamphlet

In Alaska, every registered voter is mailed an Official Election Pamphlet before a general election. On ballot measures, the Pamphlet includes a "yes" statement and a "no" statement. These "yes" and "no" statements are not only widely read by voters; the names of the individuals writing them are influential in their own right. I found no data on the influence of Alaska's Official Election Pamphlet. But according to a survey of California voters who read California's information ballot, "nearly 80%... found the names of the individuals signing the pro and con arguments a useful guide to voting." (Dubois and Feeney 1998, 216). The same survey asked voters to identify sources of information they usually use in considering ballot propositions. The voter pamphlet came out on top (92.4%) followed by newspaper editorials (51.4%), friends and relatives (47.8%), televisions news (38.0%), TV or radio talk shows (34.9%), TV or radio advertisements (29.5%), campaign mailings (27.3%), or recommendations from pollical candidates or political parties (25.4%) (Dubois and Feeney 1998, 167).

The Lt. Governor solicits and selects the "yes" and "no" statements in a highly secretive process. For the other legislative bypass mechanism in Alaska, the statutory initiative (Alaska has the statutory but not constitutional initiative) the Lt. Governor has no discretion over who is selected

[43] Garrett and Smith cite two political scientists who describe this as a technique interest groups use to hide the true source of their campaign contributions (Garrett and Smith 2005, 307).
[44] ADN was also a member of the Anchorage Chamber of Commerce and described itself as "Alaska's largest news site and daily newspaper…"
[45] E.g., "A Resolution opposing a constitutional convention," Anchorage Chamber of Commerce, Sept. 16, 2022.

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to write the "yes" statement because the entity that got enough signatures to place the item on the ballot has the right to write the "yes" statement. But no such entity exists for the "yes" statement to the periodic constitutional convention referendum because the constitution rather than a private entity places it on the ballot. Instead, the Lt. Governor is given complete discretion over who is chosen to write the "yes" statement.

In 2022, the Lt. Governor used that power to solicit and select Bob Bird as the author of the "yes" statement. Bird was a longtime, outspoken advocate for a convention. But he was also the head of a highly controversial party, the Alaskan Independence Party, whose gubernatorial candidate in the 2022 election came in 6th and received less than 1% of the vote. The party had advocated for Alaska becoming an independent country. This solicitation occurred on May 6, 2022, when Lt. Governor Applebee wrote to Bird:

> The Division of Elections is looking for someone to write the pro statement for the Constitutional Convention Question. Would that be something you would be interested in doing?

Bird was the only person the Lt. Governor reached out to write the "yes" statement, and Bird accepted the invitation. This then helped establish Bird as the controversial face of the "yes" campaign. Months later, Alaska's public TV station would choose Bird as one of two individuals to represent the "yes" side of the state's most publicized debate on whether to call a constitutional convention. The "no" campaign would feature Bird's support of a convention in a mailing sent to swing voters just weeks before the election. And much TV news coverage would feature Bird in its coverage of the convention. Yet Bird was not part of the organized "yes" campaign in Alaska and was specifically not asked to join that coalition because of some of his controversial positions.

Of course, it is standard in American politics to try to portray your opponent as an extremist. This is also central to convention referendum politics. What is noteworthy in this case is that a senior elected government official acting in his official capacity chose an unpopular politician/political party as the spokesperson for the "yes" campaign, used government funds and highly influential government media to promote that choice, and then engaged in a coverup campaign to hide its influence in choosing that person. The coverup campaign was simply delays in responding to public records requests for the correspondence between the Lt. Governor's office and Bird.[46]

A more general way to frame this Official Election Pamphlet bias is that Alaska has a biased system of public campaign finance for the periodic constitutional convention question. The Pamphlet mostly consists of lots of standardized but valuable information about the candidates provided by the candidates themselves (e.g., photo, education, length of residency in Alaska, and statement), about other ballot measures provided by the Legislature's Legislative Services, about "yes" campaigns provided by the sponsors of ballot initiatives, and about voting rules generally. But the "yes" position on the convention referendum (which took up only one page of the 144-

[46] See "The Lt. Governor's Influence & Coverup," The Alaska State Constitutional Convention Clearinghouse, available at https://alaska.concon.info/electionpamphlet; Snider, J.H., "The lieutenant governor's sizable role in the constitutional convention," Daily News-Miner, Oct. 20, 2022; and Snider, J.H., "Apparent biases at work in creating pro-ConCon statement," June 8, 2022.

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page Official Election Pamphlet in 2022[47] seems to provide a unique opportunity for the Lt. Governor to exercise political bias and do it below the public radar. My guess is that the Legislature has never fixed this problem because it likes giving the Lt. Governor this flexibility while not tolerating it for candidate profiles, including of its members or its proposed ballot referendums. For example, imagine the Lt. Governor choosing as the face of a constitutional amendment proposed by the legislature the leader of a political party without even one seat in the legislature. Such a scenario is simply inconceivable.

The public financing of a biased official pamphlet with voter information should be viewed as part of a larger information system, not taken in isolation, as it is inextricably linked to a communication system involving the press, advocacy organizations, and voters. For items like candidate elections in a general election, the impact of the Official Election Pamphlet as a voter voting cue may be swamped by the influence of a candidate's party label and voter familiarity with an incumbent. But a convention referendum tends to be subject to much lower information rationality compared to other items on a general election ballot, so a voting cue such as a "yes" statement in the Official Election Pamphlet may become highly influential for both its direct and indirect impact. By direct impact, I mean a reader directly reading the pamphlet. By indirect impact, I mean its influence on other entities, such as news media and no campaigns, when they present to the public the face of the "yes" campaign.[48]

Recommendations

The U.S. Supreme Court has ruled that limits on ballot measure contributions and expenditures are unconstitutional (Smith, Daniel A. 2013, 184–88). This differs from political candidate contributions and expenditures, where only limits on expenditures are unconstitutional. Other countries have limits on ballot measure contributions and expenditures (Qvortrup 2020, 106). As the Venice Commission recommended: "Equality should be ensured between a proposal's supporters and opponents." (Alivizatos et al. 2022, 23) But for purposes of the discussion below, I will assume that the current national constitutional ban on such limitations makes impractical any reform proposal to implement such limits.[49]

This leaves open the possibility of improving ballot measure campaign finance disclosure. Although dated, an excellent set of recommendations, along with a comparative review of the disclosure policies of the 24 states with some type of ballot initiative, was published by the Ballot Initiative Strategy Center Foundation in 2002 (2002; See also Alexander, Kim 2011).

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[47] Official Election Pamphlet: Region V, State of Alaska, Nov. 8, 2022, p. 78.
[48] For a biased voter information pamphlet drafted by Rhode Island's Secretary of State, see: Snider, J.H. and Beverly Clay, "R.I. handbook shows blatant bias," Providence Journal, Sept. 25, 2014; Edgar, Randal, "R.I. groups debate costs, value of Constitutional Convention," Providence Journal, Oct. 2, 2014; Snider, J.H. and Beverly Clay, "The Master Puppeteers Behind R.I.'s 2014 Voter Information Handbook," The Rhode Island State Constitutional Convention Clearinghouse, Oct. 11, 2014; "Editorial: Time to reframe Question No. 3," Westerly Sun, Oct. 26, 2014. For a case of alleged pro-legislature biased language against a state Secretary of State for a constitutional initiative involving independent redistricting, see Balmert, Jessie and Erin Glynn, "Ohio Ballot Board OKs language for redistricting issue; backers plan to challenge it," Columbus Dispatch, Aug. 15, 2024.
[49] Campaign finance ballot measure public funding and restrictions on contributions and expenditures also have greater implementation problems than similar limits for candidates (Briffault 1996, 432–38). These impracticalities help motivate the search for other campaign finance reform strategies.

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Remarkably, for example, its recommendation for ballot committees to file data electronically and in a machine-readable format has still not been widely implemented (BISC Foundation 2002, 10).

Fixing the Dark Money Problem

The solution to Alaska's dark money problem for ballot measures would appear to be relatively easy to fix and may, surprisingly, already have been fixed. In 2020, Alaska passed a statutory initiative that significantly tightened up its campaign disclosure requirements.[50] Although at the time it was viewed as only applying to candidate elections, Alaskan Judge Laura Hart ruled on June 24, 2024 that it also applies to ballot measures.[51] The case involved dark money funding for a 2024 statutory initiative to repeal ranked-choice voting in Alaska, which was passed by a statutory initiative in 2020. The backers of ranked-choice voting brought the lawsuit.

Whether the ruling will be upheld in Alaska's Supreme Court has yet to be determined. It is also not clear whether it will retroactively apply to 2022 and the Sixteen Thirty Fund's dark money campaign against the constitutional referendum.

As a second-best solution to the dark money problem, Montana requires that ballot measure ads funded by dark money include the following disclosure: "This communication is funded by anonymous sources. The voter should determine the veracity of its contents." (Ventura 2024, 438)

As a practical political matter, this dark money solution requires that a state has either the statutory or constitutional initiative, and seven of the states with the periodic constitutional convention referendum have neither method to bypass the legislature.

But even nominally solving the dark money problem would leave substantial problems with ballot measure disclosure laws. For example, a law with many disclosure loopholes or that isn't effectively enforced may still shed relatively little light on campaign finance spending.

Fixing the Other Campaign Finance Disclosure Problems

In addition to dark money, other issues that should be addressed include improving timely and user-friendly public access to disclosures, closing disclosure loopholes, and enforcing disclosure laws (Garrett and Smith 2005). Alas, for the periodic convention referendum, legislators may have little incentive to fix disclosure problems because undisclosed money favors the "no" side that they support. Some of the problems are also highly complex in ways that government may not be well suited to fix even if legislators wanted to. Governments are notoriously incompetent

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[50] Alaska has the statutory but not constitutional initiative.

[51] *Alaskans for Honest Elections v. Alaska Public Offices Commission,* Case No. 3AN-24-04508CI, June 24, 2024, available at https://www.documentcloud.org/documents/24774817-240621-court-order-in-ahe-v-apoc. For a summary of the case, see Brooks, James, "State judge upholds most fines against group seeking repeal of Alaska ranked choice voting," Alaska Public Media, June 24, 2024. APOC confirmed that "true source" reporting applies to ballot measures in an advisory opinion number AO 24-04-CD dated August 16, 2024.

at designing user friendly websites even when, unlike in the case of convention referendums, it's in their self-interest to do so (Pahlka 2023).[52]

Consider public access to campaign finance disclosure data, which has great room for improvement. Even by the relatively modest standards of the 2002 BISC report, public access to campaign finance disclosure data remains user unfriendly for the average citizen, as illustrated by Alaska's campaign finance disclosure website for ballot measures.[53]

To be sure, government officials rarely promote it as user friendly. Instead, they conceptualize it in terms of a two-step process whereby media and other opinion leaders can access data from government campaign finance disclosure databases and then share it in a user-friendly format with average citizens. Accordingly, if it requires a high degree of motivation and sophistication to access the data, that's not an unsurmountable problem because it is assumed that reporters have the necessary skill and motivation to overcome that hurdle.

In contrast, I recommend a much more ambitious goal for campaign finance disclosure: make the data directly accessible to the voter by, in part, including user friendly links to it in voter information handbooks and ballots.[54] For example, just like party labels are adjacent to candidate names on a ballot, links to "yes" and "no" campaign finance disclosure should be adjacent to the "yes" and "no" options on the ballot and in voter information handbooks mailed to all registered voters. Total "yes" and "no" contributions, dark money, and out-of-state money should be tallied, major contributors should be listed, all contributions should be sortable and searchable, and individual contributions below a threshold, such as $1,000, should be redacted but available without personally identifiable information because of the need to balance the value of disclosure with the value of privacy.

Effectively implementing this proposal would be difficult, as illustrated by the abysmal interface of Alaska's campaign disclosure database, which is like wading through old-fashioned handwritten checkbooks with a separate checkbook report for each day's entries. Such campaign finance disclosure pigsties are why many people, including reporters, go to Open Secrets to access such data, as Open Secrets massages the data and puts it in a user-friendly format.[55] But it would not be appropriate to directly link to a private database in a government voter information handbook or ballot.

Disclosing the actual campaign ads, as recommended by the Ballot Initiative Strategy Foundation (BISC Foundation 2002, 30), has become more important than ever. In the past, it was very difficult but not impossible for researchers and reporters to track radio and TV ads. But highly targeted social media ads are all but impossible to track. This is especially so for out-of-state researchers such as myself because with today's technology all ads can be targeted within a specific state. This would also contribute to enforcement because by law these ads are supposed

[52] For a more recent example, see Korn, Melissa,"How the Effort to Revamp Financial Aid Resulted in Chaos," Wall Street Journal, May 20, 2024.
[53] See https://aws.state.ak.us/ApocReports/Home.aspx.
[54] Gross and Goidel claim that it is "absurd" to expect voters to access disclosure records directly. But they do not make that statement in the context proposed here (2003, 18).
[55] See/https:/www.opensecrets.org/ballot-measures. A survey of political journalists found that Open Secrets was their top choice for federal campaign finance disclosure information (Heerwig and Shaw 2014, 1487).

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to include their sponsors on them. It would also induce accountability and thus less misinformation, just like listing ad sponsors was supposed to do.

I have no recommendations to fix enforcement problems, which are severe and have led others to propose reforms (King, Tracy 2021; Weiner, Daniel I. 2019). For example, it has been known for decades that the Federal Election Commission often fails to enforce campaign finance laws, partly because it is composed of three Democrats and three Republicans who often deadlock on enforcement when partisan interests are at stake (Noti, Adav et al. 2022). As a result, the Campaign Legal Center often attempts to use the courts to enforce U.S campaign finance laws (CLC 2021). But that's a second-best solution, as it's prohibitively costly and excessively slow to be of much practical use in dealing with most enforcement problems.

Among states with the periodic convention referendum, Rhode Island appears to be an excellent example of unenforced (and perhaps unenforceable) campaign finance disclosure laws concerning ballot measures as opposed to candidate elections. Rhode Island has no initiative, referendum, or recall, but it does have legislature-initiated bonds and constitutional amendments as well as the automatic periodic convention referendum. Rhode Island's Board of Elections has apparently concluded that enforcing Rhode Island's campaign finance disclosure laws for the convention referendum is not a priority, perhaps because these laws are largely unenforceable.[56] Even when violations are clear, the system is skewed to enforcement by only well-heeled interest groups. And when the violations occur in the days before an election, even clear violations cannot be meaningfully enforced regardless of one's wealth.[57]

On disclosure loopholes, I also have no recommendations to fix the loopholes. For an example of the difficulty closing a major loophole, allocating costs to convention expenditures within a large organization seems like an inherently subjective task, when no independent monitor can monitor the time an individual devotes to a particular task and fixed costs, such as office space, are notoriously hard to allocate among different activities that use them, For example, when a newsletter for a half million union members allocates 5% of its annual news hole to opposing a convention—even assuming that the 5% and total costs of the newsletter could be reasonably easily and objectively determined—what would be a fair amount to report in a campaign finance

[56] For overall descriptions, see Snider, J.H., and Beverly Clay, 'Dark money' drives R.I. constitutional convention votes," Providence Journal, June 13, 2014; and Murphy, Timothy, "Insiders maneuver against Rhode Island," Providence Journal, Oct. 28, 2014. For details on the "no" campaign illegally hiding behind dark money contributions in 2004, see Brown, Jim, "Clean government fingers follow reformers," Pawtucket Times, Nov. 5, 2004; Letter from Rhode Island Board of Elections to Rhode Island ACLU, Nov. 17, 2004; Anderson, Liz, "Election Spending Reports Probed," Providence Journal, Nov. 18, 2004; Achorn, Ed, "Citizens for Special-Interest Government," Providence Journal, Dec. 14, 2004; Complaint filed by Operation Clean Government to the Rhode Island Board of Elections, Jan. 5, 2005, 25 pages plus 31 exhibits; Achorn, Ed, "Hiding behind Mr. O'Brien," Providence Journal, Jan. 25, 2005; Complaint filed by Operation Clean Government to the Rhode Island State Police, Nov. 10, 2005, 3 pages.

[57] For the "no" campaign's complaints about violations in 2014, see Snider, J.H., and Beverly Clay, "Yes Coalition Files Complaint with Board of Elections; BOE Rules on Complaint," The Rhode Island State Constitutional Convention Clearinghouse Blog, Oct. 31, 2014; Borg, Linda, "The Board of Elections issues warning to group opposing Constitutional Convention," Providence Journal, Oct. 31, 2014.. After the Nov. 2014 election, the "no" campaign threatened to sue the "yes" campaign if it pursued its claims of campaign finance violations with the Rhode Island Board of Elections. Given that such litigation would be prohibitively costly and make no difference because the election was already over, the "no" side dropped its complaints and the Board of Elections pursued the case no further.

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disclosure? Paying a magazine with a similarly sized and attentive audience to run similar articles on a monthly basis would likely cost hundreds of thousands of dollars—assuming such an "ad" placement were even possible and thus not priceless. Similarly, when a "no" campaign organizer showers general financial support on potential allies who will then return the favor, in part, by publicly opposing calling a convention, how should such relationship building financial support be allocated, if at all? In a 2005 scholarly article, Elizabeth Garrett and Daniel A. Smith described many of the loopholes, and it seems to me that during the last two decades little progress has been made closing them (Garrett and Smith 2005).

The Need for a New Voting Cue Paradigm

Instead of fixing convention referendum campaign finance disclosure to provide better voting cues to voters, I propose a reform agenda based on a completely different paradigm for providing helpful cues to voters. Just because the purpose of campaign finance disclosure is to provide a helpful cue to voters does not mean that campaign finance disclosure is the only or best means to provide such cues. My proposals include voting cues for all three sets of public votes that constitute the convention process: 1) whether to call a convention, 2) to elect delegates to a convention, and 3) whether to approve or reject each convention proposal.

To complement the current ballot measure campaign finance voter information system, I suggest a system for public votes 1) and 3) that relies on a citizens' assembly process for "yes" or "no" evaluations of the referendums followed by posting those evaluations on the ballot the way party labels provide voting cues in candidate elections.

I define a citizen's assembly as a large group of randomly selected citizens that comes together to deliberate and then vote on certain public matters. During the past decade, dozens of government sponsored citizens' assemblies have been implemented outside the United States but not for the purposes and with the powers described below (OECD 2020).

Public Vote #1: The Convention Referendum

For the public's vote on whether to call a constitutional convention—that is, the convention referendum—I suggest a two-stage process of citizen assemblies: the first to identify high quality pro & con speakers; the second to vote for or against calling a convention.

Stage One Citizens' Assembly

- The citizens' assembly includes approximately five hundred randomly selected individuals who are stratified to include an equal number of men and women.
- The court system selects and hosts the randomly selected citizens' assembly.
- Three judges appointed by a state's supreme court moderate the citizens' assembly.
- Two groups of people are invited to testify before the citizens' assembly: former government officials and citizens.
- Day #1 morning: Eligible testifiers are former elected state officials, including legislators, provided that they are 1) not currently a registered lobbyist, 2) not currently running for elected office, and 3) agree to be disqualified from running for office up through the next

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general election.[58] Each will present a short statement, accompanied by a short biography like those found in voter information handbooks (called a "pamphlet" in Alaska), advocating for either a no or yes vote. The judges can determine the amount of time for each first stage statement based on the number of qualified people who register to speak.
- Day #1 afternoon: Eligible testifiers among the general citizenry are selected as follows: Citizens may enter their names into a pool from which fifteen citizens offering a "yes" statement and fifteen offering a "no" statement will be randomly chosen. Any citizen placing their names into the pool must first qualify to do so by getting ten signatures from fellow citizens who vouch that the person has researched "no" and "yes" arguments about whether to call a convention and will be making either a "yes" or "no" argument. Each randomly selected citizen will present a short statement explaining their position, accompanied by a short biography like those found in voter information handbooks. The judges can determine the amount of time for each first stage statement based on the number of qualified people who register to speak.
- Day #2 morning. The citizens' assembly selects five "yes" advocates and five"no" advocates to participate in the second stage. At least two of each of the five chosen "yes" and "no" advocates must come from the citizen group. This citizens' assembly then permanently disbands. Each of the selected finalists earns a modest prize, such as $2,000.

Stage Two Citizens' Assembly

- This citizens' assembly is constituted the same way as the first one; that is, it includes approximately five hundred randomly selected individuals who are stratified to include an equal number of men and women.
- The court system selects and hosts the randomly selected citizens' assembly.
- Three judges appointed by a state's supreme court moderate the citizens' assembly.
- Day #1 morning: The citizens' assembly listens to the five yes and five no statements, which may be revised and extended based on the time available. For example, if three hours are available, then each speaker may be granted up to fifteen minutes.
- Day #1 afternoon: The citizens' assembly deliberates among themselves in small groups concerning the "yes" and "no" positions. Then each citizens' assembly member votes yes or no. The winning side receives a modest sum, such as $12,000, to be divided equally among the six testifiers on that side.

The Resulting Voting Cue

The citizen assembly's yes, no, and undecided vote is printed on the ballot and in a voter information handbook, if one exists. The tallied vote is printed immediately adjacent to the constitutional convention referendum question like a party label would be for a candidate election. A link, such as a bar code, is also provided next to the convention referendum question

[58] The California Constitution's criteria for membership on its Citizens Redistricting Commission are even more restrictive than proposed here: "A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this State." See California Constitution, Article XXI.

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that points to a video recording of the five "yes" and "no" presentations given before the stage 2 citizens' assembly. This is akin to the pro and con legislator vote counts on legislature-referred referendums that are provided in some states in voter information guides to provide a voting cue to voters—in that case, one that favors the winning side in the legislature (Dubois and Feeney 1998, 165).

The closest precedent for this type of government-sponsored voting cue may be Rhode Island's constitutionally mandated constitutional convention preparatory commission. Every ten years, when the constitutional convention referendum must be placed on the ballot, the legislature is required to appoint an independent commission to propose issues a convention could address. Once appointed, the commission is supposed to hold well publicized public hearings to solicit information about the merits of calling a convention, including a convention's possible agenda. The commission then issues a public report on its findings to the voters. Rhode island's Secretary of State then uses that report as the basis of his summary of the referendum that he publishes in a Voter Information Handbook mailed to all registered voters in Rhode Island.

Since 1994, the preparatory commission has not worked out as its drafters hoped. The legislature has picked commission members who will represent their anti-convention interests, and the commission has drafted a report that highlights the costs and risks of a convention with little serious attention given to its possible benefits, including the democratic reason why such a referendum was included in Rhode Island's constitution.[59]

I believe a citizens' assembly based preparatory commission is much more likely to provide unbiased and useful information about an upcoming referendum than the strategy employed in Rhode Island.

An alternative, more widely available voting cue is private sector campaign advertising for or against the convention referendum. In Alaska in 2022, approximately $5 per capita was spent for such advertising. The advertising campaign mostly consisted of one-sided, highly repetitious soundbites making questionable claims. A citizens' assembly-based voting cue holds out the prospect of providing a higher quality, more efficient cue at a substantially lower cost.

Given that legislators prefer to focus on a constitutional convention's costs and risks rather than its potential benefits, such a citizens' assembly-based proposal could probably only be implemented in one of the seven states with both some type of initiative and the periodic convention referendum. For the other seven states with only the periodic convention referendum, it could probably only be implemented if a convention had already been called.

Public Vote #2: The Election of Delegates

For the public's vote on which candidates to elect to a convention, I recommend a process that does not require the use of citizen assemblies. Unlike most convention elections in U.S. history,

[59] For example, see Snider, J.H., Legislature Subverting State's ConCon Process, *Providence Journal*, June 23, 2024; Snider, J.H., and Gary Sasse, It's past time for RI to prep for Nov. 5 constitutional convention, *Providence Journal*, May 12, 2024; Snider, J.H., and Beverly Clay, R.I. handbook shows blatant bias, *Providence Journal*, September 25, 2014; Snider, J.H., and Beverly Clay, R.I.'s poor preparation for convention, *Providence Journal*, August 2, 2014.

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candidates for delegate would face a primary as well as a general election. The primary would be an open primary that selects the top 4 or 5 candidates to qualify for the general election. In the general election, candidates would be chosen via ranked-choice voting.

For both the primary and general election, fusion voting would be allowed, which means candidates could put multiple party labels by their name providing they received approval by the respective parties. Parties could relatively easily qualify for this purpose by submitting a platform statement and receiving a nominal number of signatures, such as 200. These party labels would essentially be endorsements that a candidate, with the approval of the party, could choose to attach next to his name. If there were long lists of endorsements, the additional ones would have to be provided via some type of linked electronic access.

For both the primary and general election, a voter information handbook would be mailed to all registered voters including a two-page bio for each candidate with the candidate's credentials, party endorsements, and statement about why they are running for delegate. For both the primary and general elections, candidates could also submit to an elections office the URL for their website and up to a five-minute video explaining why they are running for delegate, which the voter information handbook would link to. The Voter Information Handbook would also include the names, platforms, candidate vetting process, and list of mutually endorsed candidates of parties that not only reached the signature threshold but also have at least three mutually endorsed candidates. Each party could also submit up to a five-minute video explaining its platform, which the voter information handbook would link to.

The number of districts would match the number of representatives in the lower house of the state's legislature. But the boundaries of each district would be based on a computer algorithm mandating only equal population per district and maximally compact districts. Multi-member districts, which are better for proportional representation when combined with ranked-choice voting, should also be considered.

Bans on running for delegate—an extension of the ubiquitous constitutional ban on plural office holding, which bans members of one branch of government from simultaneously serving in another—would include the following: No elected state official, member of their immediate family, or their paid staff would be allowed to run for delegate. No staffer in the legislative, executive, or judicial branch would be allowed to run for delegate. No convention delegate would be allowed to run for office in either the legislative, executive, or judicial branch through the next general election following the adjournment of the convention. No individual registered as a lobbying anytime during the period from one year before a convention call through the delegate election would be allowed to run for delegate.[60]

[60] Bans on plural office holding, which are to preserve the separation of powers within government, are ubiquitous in U.S. state constitutions but the details vary greatly. Regarding only convention delegate elections, the details also vary. For example, only a few states explicitly ban both legislators and certain other government officials from running for delegate. Many of the state bans on wearing multiple government-related hats are agency specific and may be popularized in terms of ethics rather than separation of powers. For example, California's constitution includes the following restrictions on members of its redistricting commission: "The selection process is designed to produce a commission that is independent from legislative influence… A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years

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Note that under these rules former government officials, including former legislators, would be welcome to run for delegate, although, if elected as a delegate, would be banned from running for any other office until one general election cycle after the convention adjourned. Welcoming former government office holders to run and share their skills is because the conflict to be deterred is not government office holding per se but incumbent government office holders designing their own powers. Similarly, bans on plural office holding are, by definition, only directed at incumbent office holders, not former office holders.

Public Vote #3: The Ratification Referendum

For the public's vote on whether to ratify a convention's proposals, I suggest a different type of citizens' assembly than for public vote #1: a single stage process, albeit one that may be repeated depending on the number and nature of a convention's proposals. The convention has the right to decide how these proposals are presented to the public via the citizens' assembly process; that is, just as it has the right to decide how its proposals will be packaged for popular ratification, it can decide how its proposals are packaged for consideration by citizen assemblies. By packaging, I mean which proposals will be each assigned to separate assemblies. For example, a set of five simple proposed amendments might be assigned to one assembly whereas a more complex amendment might be assigned to its own assembly.

- The citizens' assembly includes approximately five hundred randomly selected individuals who are stratified to include an equal number of men and women.
- The court system selects and hosts the randomly selected citizens' assembly.
- Three judges appointed by a state's supreme court moderate the citizens' assembly, including deciding on the specifics of the debate process.
- The citizens' assembly will listen to arguments both for and against each proposal placed on the ballot for popular approval or rejection. For each proposition, the convention will choose its supporters and the legislature its opponents.
- The citizens' assembly will spend half a day listening to the pro and con arguments by the designated speakers, then they will spend half a day deliberating among themselves in small, round-robbin groups of, say, 10, how to vote.
- The citizens' assembly will reconvene to vote yes or no on each proposition.
- As with the citizens' assembly process for calling a convention, the votes of the citizens' assemblies are printed in both the official voter information handbooks and ballots associated with the referendum. The videos of the formal debates on which the assembly members' votes were based are also made accessible via both the voter information handbook and ballot.

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beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this State." Article XXI of California's Constitution. Missouri's Constitution limits convention delegates as follows: "no person holding any other office of trust or profit (officers of the organized militia, school directors, justices of the peace and notaries public excepted) shall be eligible to be elected a delegate." Article XII of Missouri's Constitution. In 1971, Montana's Supreme Court ruled that under Montana's constitutional ban on plural office holding, existing office holders such as legislators, mayors, and county commissioners could not run as convention delegates. *Forty-Second Legislative Assembly v. Lennon* 481 P.2d 330 (1971).

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The closest precedent for this type of process may be Mongolia's use of citizen assemblies to deliberate and then vote on amendments proposed by the Mongolian parliament. But the details differ greatly. For example, the primary audience for the citizens' assembly votes is parliament, not the general public trying to decide how to vote on a referendum. An independently elected convention has no part in the process. And the government sets up an independent commission of appointees to orchestrate the citizens' assembly process, including deciding which experts to be used to educate the assembly on the issues (Fishkin, James and Siu, Alice 2021).

Unlike the citizen assemblies and related processes for informing voters on whether to call a convention, the politics of this assembly-based process for informing voters on whether to ratify a convention's proposals are much less daunting. This is because creating such a process is part of a convention's inherent powers. To be sure, creating a budget for it when confronted with an obstreperous legislature may be a more difficult task. But, if necessary, a convention could pay for it out of its general funds or with funds provided by a nonprofit foundation.[61]

Fixing The Campaign Financing Imbalance

Without relying on a government fix, the most probable way to fix the funding imbalance between the "yes" and "no" sides may be by large individual contributions. In recent decades, no such individuals have stepped forward for convention referendums. But they have stepped forward for good government ballot initiatives, including the ranked-choice voting ballot initiative in Nevada in 2022. But even during the last great wave of state constitutional conventions in the 1960s and early 1970s, individual contributions appear to have played a minor role in "yes" campaigns. Broadly funded good government groups, including the League of Women Voters, took a greater role. This role included bringing litigation or the threat of litigation to force the calling of state conventions to enable the independent reapportionment of state legislative districts based on the principle of one-person, one-vote in the wake of the U.S. Supreme Court's *Baker v. Carr* line of cases mandating such reapportionment (Tarr 2014, 28).[62] Today, no such U.S. Supreme Court assist appears on the horizon. Given that convention-based reform remains far more costly and unpredictable to influence, ballot initiatives would appear to remain the preferred vehicle for not only groups but individual donors pursuing a reform agenda.

On Measuring and Reporting on Constitutional Convention Collective Action Problems

For future comparative academic research on measuring collective action problems for constitutional convention referendums and ballot measure campaigns more generally, I suggest a refined methodology based on campaign finance disclosure data. For calling a convention, I suggest that a difference in per capita "yes" and "no" money raised of more than $1 in absolute amount and 100% in relative terms be viewed as an indicator of a failed political marketplace. For example, the indicators in Alaska of a $6.45 difference per capita in absolute terms and 78:1 in relative terms would clearly indicate failure. The need for both an absolute and percentage

[61] A better approach for convention budgeting might be the following: If a legislature rejects a convention's appeal for more or different funds to complete the convention's work satisfactorily, the convention can call a citizens' assembly to vote its request up or down in a binding vote. The convention will provide "yes" advocates and the legislature "no" advocates, and the convention will decide which side's position has more merit.
[62] For illustrative cases, see Butterworth v. Dempsey, 237 F. Supp. 302 (1965) and Maryland Citizens Committee for Fair Congressional Representation v. Tawes, 253 F. Supp. 731 (1966).

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indicator is because of the prevalence of one side spending zero or close to zero dollars per capita. This indicator can also be used to compare the relative failure of constitutional conventions to other types of ballot measures, such as the Type 1 to 4 ballot measure types and Type 2 subtypes described in this paper. However, such indicators do not measure deterrence effects.

To measure potential deterrence effects, I suggest multiplying the difference in per capita “yes” and “no” money raised by the difference in winning percentage between the “yes” and “no” campaigns. For example, in Alaska this gives us an indicator of $6.45 times 40 (70% for “yes” minus 30% for “no” side equals 40%).

To be sure, neither of these measures is perfect and would have to be accompanied by qualifying narratives, such as the problems with campaign finance disclosure data. But they would represent an improvement in quantitatively measuring important comparative intuitions about the distortions caused by collective action problems in ballot measure campaigns.

I also suggest that ballot measures of the same narrow type, such as convention referendums, be treated not in isolation but as a group with certain deterrence properties. For each class, one or more ballot measures may be classified as a potential ”deterrence” indicator for that group and this should be used to qualify any ballot measures that appear to be uncontested or very lightly contested.

Distinguishing between different ballot measure types could also improve the quality of media coverage of convention referendum campaigns because “no” campaigns and the media that report on them routinely fail to distinguish between the influence of money on Type 2 versus other types of ballot measure campaigns. The pattern of campaign finance money raised, election outcomes, and subject matter (e.g., popular democratic reforms that legislatures won’t propose), strongly indicate that convention referendums currently have Type 2 characteristics rather than the Type 3 characteristics that “no” campaigns routinely claim. Making claims about a Type 2 referendum as though it were a Type 3 or other type of referendum should be viewed as an embarrassing category error and called out. A Type 3 campaign’s “yes” side seeking change has narrow interests (fewer collective action problems) and its “no” side protecting the status quo diffuse interests (greater collective action problems). Thus, Type 3 is the optimal configuration of interests for special interests to exert power.

Conclusion

Using a per capita metric to analyze ballot measure campaign finance disclosure allows small states such as Alaska to be meaningfully compared to much larger states such as California. Once we do so, an obscure ballot measure in a small state with a small local media and political scientist footprint can jump out from the pack and call for more analysis. Why the extraordinarily large and one-sided spending on Alaska’s 2022 constitutional convention referendum? What can it teach us about the latent tendencies and democratic pathologies in contemporary convention referendums? What can it tell us about important democratic differences between conventions and initiatives as legislative bypass mechanisms? What can it tell us about the state of U.S. state constitutional democracy in America today?

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It has often been said of America's legal system that it is actually two legal systems, one for the wealthy and powerful, and one for everybody else. The same may be said of its state ballot measure campaign finance disclosure laws, with rules subtly designed to favor the disclosure interests of the well-heeled and well-organized as against average citizens that suffer from collective action problems. Among ballot measures, this double standard may especially apply to periodic constitutional convention referendums. Alaska's preponderance of dark money for the wealthy and well-organized "no" campaigners illustrates this propensity.

Regardless of how to provide the most democratic system for providing voting cues to voters on convention referendums, the first task is to understand the nature and scope of the problem. In that regard, Alaska's 2022 convention referendum is an excellent starting point given its huge imbalance between "yes" and "no" expenditures, its predominance of out-of-state dark money, the failure of its media to report this information to voters in a way consistent with widely held democratic norms, and its public financing of biased information about the referendum via its Official Election Pamphlet.

Despite the above, Alaska's 2022 convention referendum is an imperfect example of all the problems with the current campaign finance disclosure regime for convention referendums, including failures to enforce the disclosure laws or fix gross loopholes. As alluded to here, recent convention campaigns in Rhode Island (2014), New York (2017), and Hawaii (2018) would enrich the discussion of such problems.

For decades, little progress has been made on fixing problems with campaign finance disclosure for constitutional convention referendums. I thus recommend a new paradigm for providing voting information that is independent of the campaign finance system. Many of the recommendations could or already have been carried over to other types of elections. But the focus here is only on improving voting information for convention related elections.

Are the collective action problems associated with the contemporary periodic constitutional convention referendum and manifested in its associated campaign finance disclosures worth attempting to fix? The answer largely depends on whether one thinks the periodic constitutional convention referendum is a cornerstone of a well-designed constitutional democracy or some fringe and obsolete institution—the way the enemies of this institution often portray it. I have not attempted to answer that question in this paper, but it is perhaps the key question for those considering devoting effort to understand and improve this institution.

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Appendix: 2022 U.S. State Ballot Measure Data

				Votes For and Against					Total Dollars		Dollars Per Capita					
State	**Population**	**Type***	**Title**	**Yes Votes #**	**No Votes #**	**Yes %**	**No %**	**Passed?**	**Total Yes $**	**Total No $**	**Total Yes $**	**Total No $**	**Yes + No**	**|Yes - No|**	**No > Yes?**	**Deterrence Index**
Alabama	5,024,279	LRCA	Amendment 1	605,329	181,138	77%	23%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 10	816,634	278,984	75%	25%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 1	1,020,464	247,554	80%	20%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 2	939,704	256,541	79%	21%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 3	994,276	219,903	82%	18%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 4	937,729	235,090	80%	20%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 5	780,480	355,467	69%	31%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 6	676,579	437,997	61%	39%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 7	834,734	272,159	75%	25%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 8	686,822	272,999	72%	28%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Amendment 9	683,160	273,102	71%	29%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alabama	5,024,279	LRCA	Question	888,456	273,040	76%	24%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Alaska	**733,391**	**ABR**	**Measure 1**	**75,723**	**180,529**	**30%**	**70%**	**N**	**61,607**	**4,793,929**	**$0.08**	**6.54**	**$6.62**	**$6.45**	**TRUE**	**258**
Arizona	7,151,502	LRCA	Proposition 128	859,675	1,502,368	36%	64%	N	0	16,905	$0.00	$0.00	$0.00	$0.00	TRUE	0
Arizona	7,151,502	LRCA	Proposition 129	1,311,046	1,062,533	55%	45%	Y	555,000	16,905	$0.08	$0.00	$0.08	$0.08	FALSE	1
Arizona	7,151,502	LRCA	Proposition 130	1,478,583	840,299	64%	36%	Y	0		$0.00	$0.00	$0.00	$0.00	FALSE	0
Arizona	7,151,502	LRCA	Proposition 131	1,299,484	1,056,433	55%	45%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Arizona	7,151,502	LRCA	Proposition 132	1,210,702	1,176,327	51%	49%	Y	0	16,905	$0.00	$0.00	$0.00	$0.00	TRUE	0
Arizona	7,151,502	CISS	Proposition 209	1,747,363	679,089	72%	28%	Y	13,363,079	0	$1.87	$0.00	$1.87	$1.87	FALSE	82
Arizona	7,151,502	CISS	Proposition 211	1,736,496	664,111	72%	28%	Y	1,575,271	0	$0.22	$0.00	$0.22	$0.22	FALSE	10
Arizona	7,151,502	LRSS	Proposition 308	1,250,320	1,189,877	51%	49%	Y	4,516,522	0	$0.63	$0.00	$0.63	$0.63	FALSE	1
Arizona	7,151,502	LRSS	Proposition 309	1,201,181	1,219,669	50%	50%	N	164,835	21,490	$0.02	$0.00	$0.03	$0.02	FALSE	0
Arizona	7,151,502	LRSS	Proposition 310	1,144,495	1,230,042	48%	52%	N	566,105	0	$0.08	$0.00	$0.08	$0.08	FALSE	0
Arkansas	3,011,524	LRCA	Issue 1	335,567	522,692	39%	61%	N	0	246,324	$0.00	$0.08	$0.08	$0.08	TRUE	2
Arkansas	3,011,524	LRCA	Issue 2	353,812	511,580	41%	59%	N	1,339,294	2,039,773	$0.44	$0.68	$1.12	$0.23	TRUE	4
Arkansas	3,011,524	LRCA	Issue 3	433,473	440,686	50%	50%	N	426,104	0	$0.14	$0.00	$0.14	$0.14	FALSE	0
Arkansas	3,011,524	CICA	Issue 4	392,938	505,128	44%	56%	N	14,147,003	2,759,124	$4.70	$0.92	$5.61	$3.78	FALSE	45

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California	39,538,223	LRCA	Proposition 1	7,176,883	3,553,561	67%	33%	Y	17,391,937	332,541	$0.44	$0.01	$0.45	$0.43	FALSE	15
California	39,538,223	CICA/SS	Proposition 26	3,514,593	7,129,122	33%	67%	N	120,700,970	43,827,533	$3.05	$1.11	$4.16	$1.94	FALSE	66
California	39,538,223	CICA/SS	Proposition 27	1,906,339	8,849,200	18%	82%	N	169,596,516	237,766,557	$4.29	$6.01	$10.30	$1.72	TRUE	110
California	39,538,223	CISS	Proposition 28	6,924,613	3,827,967	64%	36%	Y	10,479,873	0	$0.27	$0.00	$0.27	$0.27	FALSE	7
California	39,538,223	CISS	Proposition 29	3,364,404	7,281,196	32%	68%	N	16,170,504	74,557,630	$0.41	$1.89	$2.29	$1.48	TRUE	53
California	39,538,223	CISS	Proposition 30	4,560,483	6,203,806	42%	58%	N	50,934,451	31,917,296	$1.29	$0.81	$2.10	$0.48	FALSE	8
California	39,538,223	VR	Proposition 31	6,803,424	3,923,383	63%	37%	Y	48,129,967	2,159,192	$1.22	$0.05	$1.27	$1.16	FALSE	30
Colorado	5,773,714	LRCA	Amendment D	1,502,866	727,409	67%	33%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Colorado	5,773,714	LRCA	Amendment E	2,109,471	289,514	88%	12%	Y	10,431	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Colorado	5,773,714	LRCA	Amendment F	930,370	1,359,027	41%	59%	N	0	10,431	$0.00	$0.00	$0.00	$0.00	TRUE	0
Colorado	5,773,714	CISS	Proposition 121	1,581,163	842,506	65%	35%	Y	588,757	390,843	$0.10	$0.07	$0.17	$0.03	FALSE	1
Colorado	5,773,714	CISS	Proposition 122	1,296,992	1,121,124	54%	46%	Y	5,812,936	50,936	$1.01	$0.01	$1.02	$1.00	FALSE	8
Colorado	5,773,714	CISS	Proposition 123	1,269,816	1,143,974	53%	47%	Y	6,627,247	10,431	$1.15	$0.00	$1.15	$1.15	FALSE	7
Colorado	5,773,714	CISS	Proposition 124	905,565	1,497,346	38%	62%	N	13,797,065	903,220	$2.39	$0.16	$2.55	$2.23	FALSE	54
Colorado	5,773,714	CISS	Proposition 125	1,288,404	1,200,219	52%	48%	Y	14,599,840	903,220	$2.53	$0.16	$2.69	$2.37	FALSE	9
Colorado	5,773,714	CISS	Proposition 126	1,183,059	1,238,074	49%	51%	N	14,607,859	903,220	$2.53	$0.16	$2.69	$2.37	FALSE	5
Colorado	5,773,714	LRSS	Proposition FF	1,384,852	1,055,583	57%	43%	Y	1,823,477	10,431	$0.32	$0.00	$0.32	$0.31	FALSE	4
Colorado	5,773,714	LRSS	Proposition GG	1,704,757	665,476	72%	28%	Y	1,163,071	10,431	$0.20	$0.00	$0.20	$0.20	FALSE	9
Connecticut	3,605,944	LRCA	Question 1	687,385	448,295	61%	39%	Y	34,000	0	$0.01	$0.00	$0.01	$0.01	FALSE	0
Florida	21,538,187	LRCA	Amendment 1	4,016,022	2,997,158	57%	43%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Florida	21,538,187	LRCA	Amendment 2	3,744,930	3,206,762	54%	45%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Florida	21,538,187	LRCA	Amendment 3	4,215,601	2,968,734	59%	41%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Georgia	10,711,908	LRCA	Amendment 1	3,375,437	439,514	88%	12%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Georgia	10,711,908	LRCA	Amendment 2	352,212	313,308	53%	47%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Georgia	10,711,908	LRSS	Referendum A	2,222,571	1,544,431	59%	41%	Y	460,708	0	$0.04	$0.00	$0.04	$0.04	FALSE	1
Georgia	10,711,908	LRSS	Referendum B	2,885,541	888,336	76%	24%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Idaho	1,839,106	AQ	Advisory Ballot	454,746	115,381	80%	20%	Y	229,235	0	$0.12	$0.00	$0.12	$0.12	FALSE	7
Idaho	1,841,377	LRCA	Amendment SJR 102	287,194	267,623	52%	48%	Y	0	794,500	$0.00	$0.43	$0.43	$0.43	TRUE	2
Illinois	12,812,508	LRCA	Amendment 1	2,212,999	1,555,929	59%	41%	Y	16,350,832	2,073,596	$1.28	$0.16	$1.44	$1.11	FALSE	20
Iowa	3,190,369	LRCA	Amendment 1	748,363	399,959	65%	35%	Y	0	34,140	$0.00	$0.01	$0.01	$0.01	TRUE	0
Kansas	2,937,880	LRCA	Amendment	378,466	543,855	41%	59%	N	8,331,618	11,676,685	$2.84	$3.97	$6.81	$1.14	TRUE	20
Kansas	2,937,880	LRCA	Amendment 1	602,226	694,311	46%	54%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Kansas	2,937,880	LRCA	Amendment 2	675,634	742,232	48%	52%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0

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Kentucky	4,505,836	LRCA	Amendment 1	602,226	694,311	46%	54%	N	7,891	394,750	$0.00	$0.09	$0.09	$0.09	TRUE	1
Kentucky	4,505,836	LRCA	Amendment 2	675,634	742,232	48%	52%	N	1,152,785	6,685,815	$0.26	$1.48	$1.74	$1.23	TRUE	5
Louisiana	4,657,757	LRCA	Amendment 1	475,019	848,366	36%	64%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 2	973,937	361,378	73%	27%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 3	434,549	890,055	33%	67%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 4	994,361	332,306	75%	25%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 5	554,257	740,006	43%	57%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 6	636,105	643,076	50%	50%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 7	508,852	790,787	39%	61%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 8	717,702	593,863	55%	45%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 1	314,678	113,808	72%	27%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 2	300,635	123,250	71%	29%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Louisiana	4,657,757	LRCA	Amendment 3	305,007	118,538	72%	28%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Maryland	6,177,224	LRCA	Question 1	1,340,952	447,252	75%	25%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Maryland	6,177,224	LRCA	Question 2	1,684,519	183,099	90%	10%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Maryland	6,177,224	LRCA	Question 3	1,132,822	679,451	63%	37%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Maryland	6,177,224	LRCA	Question 4	1,302,161	635,572	67%	33%	Y	450,396	0	$0.07	$0.00	$0.07	$0.07	FALSE	2
Maryland	6,177,224	LRCA	Question 5	1,062,187	528,000	67%	33%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Massachusetts	7,029,917	LRCA	Question 1	1,265,815	1,156,323	52%	48%	Y	31,824,704	14,350,945	$4.53	$2.04	$6.57	$2.49	FALSE	10
Massachusetts	7,029,917	CISS	Question 2	1,717,895	681,238	72%	28%	Y	10,154,106	9,526,432	$1.44	$1.36	$2.80	$0.09	FALSE	4
Massachusetts	7,029,917	CISS	Question 3	1,069,921	1,312,906	45%	55%	N	1,031,255	0	$0.50	$0.03	$0.53	$0.47	FALSE	5
Massachusetts	7,029,917	VR	Question 4	1,298,399	1,108,985	54%	46%	Y	3,519,648	214,026	$0.19	$0.02	$0.21	$0.17	FALSE	1
Michigan	10,077,331	LRCA	Proposal 1	2,838,540	1,433,154	66%	34%	Y	1,349,251	142,299	$0.13	$0.01	$0.15	$0.12	FALSE	4
Michigan	10,077,331	CICA	Proposal 2	2,586,255	1,725,110	60%	40%	Y	22,718,056	7,106,615	$2.25	$0.71	$2.96	$1.55	FALSE	31
Michigan	10,077,331	CICA	Proposal 3	2,482,382	1,898,906	57%	43%	Y	48,282,045	317,028	$4.79	$0.03	$4.82	$4.76	FALSE	67
Missouri	6,154,913	LRCA	Amendment 1	896,279	1,065,773	46%	54%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Missouri	6,154,913	CICA	Amendment 3	1,092,432	965,020	53%	47%	Y	8,725,263	0	$1.42	$0.00	$1.42	$1.42	FALSE	9
Missouri	6,154,913	LRCA	Amendment 4	1,269,826	739,783	63%	37%	Y	46,580	0	$0.01	$0.00	$0.01	$0.01	FALSE	0
Missouri	6,154,913	LRCA	Amendment 5	1,197,677	791,231	60%	40%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Missouri	6,154,913	ABR	Question	633,228	1,330,427	32%	68%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Montana	1,084,225	LRCA	C-48	365,091	78,334	82%	18%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Montana	1,084,225	LRSS	LR-131	213,001	235,904	47%	53%	N	0	1,065,566	$0.00	$0.98	$0.98	$0.98	TRUE	6
Nebraska	1,961,594	LRCA	Amendment 1	481,702	129,699	79%	21%	Y	283,983	0	$0.14	$0.00	$0.14	$0.14	FALSE	8

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Nebraska	1,961,594	CICA	Initiative 432	432,028	228,031	65%	35%	Y	2,177,500	76,922	$1.11	$0.04	$1.15	$1.07	FALSE	32
Nebraska	1,961,594	CISS	Initiative 433	386,756	272,603	59%	41%	Y	3,128,529	51,000	$1.59	$0.03	$1.62	$1.57	FALSE	28
Nevada	3,104,614	LRCA	Question 1	580,022	409,228	59%	41%	Y	355,031	1,234	$0.11	$0.00	$0.11	$0.11	FALSE	2
Nevada	3,104,614	LRCA	Question 2	545,828	443,318	55%	45%	Y	2,178,934	0	$0.70	$0.00	$0.70	$0.70	FALSE	7
Nevada	3,104,614	CICA	Question 3	524,868	466,635	53%	47%	Y	23,018,272	2,425,000	$7.41	$0.78	$8.20	$6.63	FALSE	40
New Hampshire	1,377,529	ABR	Question	178,339	347,838	34%	66%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New Hampshire	1,377,529	LRCA	Question 1	329,157	194,291	63%	37%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New Mexico	2,117,522	BI	Bond Question 1	427,438	216,993	66%	34%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New Mexico	2,117,522	BI	Bond Question 2	401,866	239,007	63%	37%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New Mexico	2,117,522	BI	Bond Question 3	392,064	247,779	61%	39%	Y	348,710	0	$0.16	$0.00	$0.16	$0.16	FALSE	4
New Mexico	2,117,522	LRCA	Amendment 1	472,826	199,347	70%	30%	Y	5,688,437	0	$2.69	$0.00	$2.69	$2.69	FALSE	107
New Mexico	2,117,522	LRCA	Amendment 2	425,609	227,846	65%	35%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New Mexico	2,117,522	LRCA	Amendment 3	440,945	200,018	69%	31%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
New York	20,201,249	BI	Proposal 1	3,522,141	1,686,300	68%	32%	Y	4,588,898	0	$0.23	$0.00	$0.23	$0.23	FALSE	8
North Dakota	799,094	CICA	Con. Measure 1	150,363	86,674	63%	37%	Y	54,309	61,310	$0.07	$0.08	$0.14	$0.01	TRUE	0
North Dakota	799,094	CISS	Stat.Measure 2	107,608	131,192	45%	55%	N	615,778	4,174	$0.77	$0.01	$0.78	$0.77	FALSE	8
Ohio	11,799,448	LRCA	Issue 1	3,107,629	901,997	78%	22%	Y	465,602	0	$0.04	$0.00	$0.04	$0.04	FALSE	2
Ohio	11,799,448	LRCA	Issue 2	3,099,868	931,205	77%	23%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Oregon	4,237,256	LRCA	Measure 111	951,446	924,231	51%	49%	Y	2,441,272	0	$0.58	$0.00	$0.58	$0.58	FALSE	1
Oregon	4,237,256	LRCA	Measure 112	1,047,028	836,295	56%	44%	Y	2,573,363	0	$0.61	$0.00	$0.61	$0.61	FALSE	7
Oregon	4,237,256	CICA	Measure 113	1,292,127	599,204	68%	32%	Y	2,587,943	0	$0.61	$0.00	$0.61	$0.61	FALSE	22
Oregon	4,237,256	CISS	Measure 114	975,862	950,891	51%	49%	Y	5,014,613	189,705	$1.18	$0.04	$1.23	$1.14	FALSE	2
Rhode Island	1,097,379	BI	Question 1	197,087	145,055	58%	42%	Y	210,000	0	$0.19	$0.00	$0.19	$0.19	FALSE	3
Rhode Island	1,097,379	BI	Question 2	252,383	91,943	73%	27%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Rhode Island	1,097,379	BI	Question 3	228,228	113,144	67%	33%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
South Carolina	5,118,425	LRCA	Amendment 1	947,610	583,583	62%	38%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
South Carolina	5,118,425	LRCA	Amendment 2	973,178	584,911	62%	38%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
South Dakota	886,667	LRCA	Amendment C	59,125	122,417	33%	67%	N	905,988	2,770,417	$1.02	$3.12	$4.15	$2.10	TRUE	71
South Dakota	886,667	CICA	Amendment D	192,057	149,616	56%	44%	Y	5,059,110	0	$5.71	$0.00	$5.71	$5.71	FALSE	68
South Dakota	886,667	CISS	Measure 27	163,584	183,879	47%	53%	N	1,089,366	512,860	$1.23	$0.58	$1.81	$0.65	FALSE	4
Tennessee	6,910,840	LRCA	Amendment 1	1,141,941	494,239	70%	30%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Tennessee	6,910,840	LRCA	Amendment 2	1,176,297	400,109	75%	25%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0

Tennessee	6,910,840	LRCA	Amendment 3	1,294,296	333,071	80%	20%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Tennessee	6,910,840	LRCA	Amendment 4	1,020,981	593,461	63%	37%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Texas	29,145,505	LRCA	Proposition 1	1,128,380	168,141	87%	13%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Texas	29,145,505	LRCA	Proposition 2	1,112,961	197,120	85%	15%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Utah	3,271,616	LRCA	Amendment A	356,882	625,367	36%	64%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Vermont	643,077	LRCA	Proposal 2	238,466	30,335	89%	11%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Vermont	643,077	LRCA	Proposal 5	212,323	64,239	77%	23%	Y	0	3,195	$0.00	$0.00	$0.00	$0.00	TRUE	0
Washington	7,705,281	AQ	Advisory Vote 39	1,189,673	1,704,666	41%	59%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Washington	7,705,281	AQ	Advisory Vote 40	1,378,471	1,494,471	48%	52%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
West Virginia	1,793,716	LRCA	Amendment 1	196,519	269,316	42%	58%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
West Virginia	1,793,716	LRCA	Amendment 2	170,013	309,007	35%	65%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
West Virginia	1,793,716	LRCA	Amendment 3	211,147	253,379	45%	55%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
West Virginia	1,793,716	LRCA	Amendment 4	200,791	275,683	42%	58%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Wyoming	576,851	LRCA	Amendment A	103,389	78,714	57%	43%	Y	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0
Wyoming	576,851	LRCA	Amendment B	74,650	115,838	39%	61%	N	0	0	$0.00	$0.00	$0.00	$0.00	FALSE	0

* Ballotpedia uses the following types of ballot measures:

Initiated Ballot Measures

1. Initiated state statutes (CISS)
2. Initiated constitutional amendments (CICA)
3. Veto referendums (VR)

Referred Ballot Measures

1. Legislative constitutional amendment (LRCA)
2. Legislative state statute (LRSS)
3. Commission-referred measure (only two states, Florida and Arizona, have such measures, and there were none in 2022)
4. Automatically referred measure (ABR; includes constitutional convention referendums)
5. Bond issues (BI)
6. Advisory question (AQ)

Sources:

2022 Ballot Measures, Ballotpedia, accessed August 1, 2024; 2022 Ballot Measures, OpenSecrets.org, accessed August 1, 2024; Independent Expenditures Form 15-6, Alaska Public Offices Commission, Nov. 9, 2022.