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Single Subject Rules

Single subject rules require that an initiative address only one question or issue. Such rules benefit the initiative process because they make initiatives simpler and easier to understand. There is a danger in permitting a popular vote on a measure that addresses multiple, distinct subjects. How might a voter express his support of one subject but his rejection of another in such a situation? The lack of a single subject rule also leaves the door open to proponents who might try to make an unpopular idea more palatable by pairing it with a popular idea in a single initiative. In such cases, it is impossible to determine the majority's viewpoint on an issue.

> **Recommendation 3.2:** States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Single subject rules also are common in legislatures—41 states have constitutional provisions stipulating that bills may address only one subject, and several others have chamber rules for single-subject bills.

Among the groups that express support for single subject rules are:

Speaker's Commission on the California Initiative Process (2002),
Professor Joseph Zimmerman (in testimony before the task force, February 2002),
California League of Women Voters (1999),
Nebraska Petition Process Task Force (1995),
California Policy Seminar (1991), and
Los Angeles Times (1990).

Currently, the following 12 initiative states require that initiatives address no more than one subject. Wide variation exists in how these states define "single subject" and in how courts have interpreted the definitions.

Alaska	Florida	Oklahoma
Arizona	Missouri	Oregon
California	Montana	Washington
Colorado	Nebraska	Wyoming

Banning Similar Measures from the Ballot for a Specified Period of Time

Banning the same or a substantially similar measure from reappearing on the ballot for a specified period of time helps to reduce the number of measures on the ballot.

> **Recommendation 3.3:** If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

Five states currently prohibit the same or a substantially similar measure from reappearing on the ballot for a specified period of time after it is rejected by voters. Time periods range from two years in **Mississippi** to five years in **Wyoming**. If an initiative is found to be the same or substantially similar to an initiative that appeared on the ballot within the specified time frame, state election officials deny the proponent's initiative application.

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In none of these states are the terms "same" and "substantially similar" defined in statute or the constitution. The decision about whether a measure is the "same" or "substantially similar" is left to a state official, generally the state's chief election officer or, ultimately, the courts.

Table 3. States with Bans on Same/Substantially Similar Initiatives

	Language of the Ban	Time Period
Massachusetts	A measure cannot be substantially the same as any measure that has been qualified for submission or appeared on the ballot at either of the two preceding biennial state elections.	Six years (banned from next two biennial state elections)
Mississippi	If an initiative is rejected, no initiative petition proposing the same or substantially the same amendment shall be submitted to the electors.	Two years
Nebraska	The same measure, either in form or in essential substance, shall not be submitted by initiative petition more often than once in three years.	Three years
Oklahoma	Any initiative measure rejected by the people cannot be again proposed by initiative within three years by less than 25 percent of the legal voters.	Three years
Wyoming	An initiative petition may not be filed for a measure substantially the same as that defeated by an initiative election within the preceding five years.	Five years

Source: National Conference of State Legislatures, April 2002.

In many states, a similar restriction is imposed on the legislature, prohibiting bills that have been defeated (or bills that are substantially the same as ones defeated) from being reintroduced—either as a bill or an amendment—during the same legislative biennium. **Florida**, **Mississippi**, **Ohio** and **Wyoming** are examples of initiative states with such rules for their legislatures.

Table 4 summarizes all initiative subject restrictions.

Table 4. Initiative Subject Restrictions

	Single Subject?	Other Subject Restrictions
Alaska	Yes	No revenue measures No appropriations No acts affecting the judiciary No local or special legislation
Arizona	Yes	None
Arkansas	No	None
California	Yes	May not include or exclude any political subdivision of the state from application or effect. May not contain alternative or cumulative provisions wherein one or more of those provisions would become law, depending upon the casting of a specified percentage of votes for or against the measure.

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
Colorado	Yes	None
Florida	Yes	May not include limitations on the power of government to raise revenue.
Idaho	No	None
Illinois	Yes	Allowed only for amendment of constitutional Article IV, relating to structural and procedural subjects concerning the legislative branch.
Maine	No	Any measure providing for an expenditure of funds in excess of those appropriated becomes inoperative 45 days after the legislature convenes.
Massachusetts	No*	No measures relating to: • Religion • The judiciary • Specific appropriations • Local or special legislation • The 18th amendment of the constitution • Anything inconsistent with the rights of individuals as enumerated in the constitution A measure cannot be substantially the same as any measure that has been qualified for the ballot or appeared on the ballot in either of two preceding general elections.
Michigan	No	The initiative power extends only to laws that the Legislature may enact.
Mississippi	No	The initiative cannot be used to amend/repeal the: • Bill of Rights • Public employees' retirement system • Right-to-work provision • Initiative process Only first five certified measures may go on ballot If a measure is rejected by voters, no identical or substantially similar measure may go on ballot for a minimum of two years. If an initiative requires a reduction in government revenue or a reallocation from currently funded programs, the initiative text must identify the program or programs whose funding must be reduced or eliminated to implement the initiative.
Missouri	Yes	No appropriations of money other than new revenues created and provided for by the initiative. Cannot be used for any purpose prohibited by the state's constitution
Montana	Yes	No appropriations No local or special laws
Nebraska	Yes	Limited to matters that can be enacted by legislation and cannot interfere with Legislature's ability to direct taxation for state and governmental subdivisions. The same measure cannot be initiated more often than once in three years.
Nevada	No	No appropriations Cannot require an expenditure of money unless a sufficient tax is provided as part of the initiative proposal.

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
North Dakota	No	No emergency measures No appropriation measures for the support and maintenance of state departments and institutions
Ohio	No	May not be used to pass a law: • Authorizing any classification of property for the purpose of levying different rates of taxation thereon • Authorizing the levy of any single tax on land, land values or land sites at a higher rate or by a different rule than is applied to improvements thereon or to personal property
Oklahoma	Yes	Initiatives rejected by the voters cannot be proposed again for three years by less than 25 percent of the state's legal voters
Oregon	Yes	None
South Dakota	No	No private or special laws
Utah	No	None
Washington	Yes	None
Wyoming	Yes	Cannot be used to: • Dedicate revenues • Make or repeal appropriations • Create courts • Define the jurisdiction of courts • Prescribe court rules • Enact local or special legislation • Enact legislation prohibited by the Wyoming constitution The same measure cannot be initiated more often than once in five years.

*In interviews conducted in May 2002, election officials in Massachusetts said that although that state does not have a single subject rule, it does have a requirement that an initiative contain only subjects that are related or mutually dependent. Courts have interpreted relatedness to mean that "... one can identify a common purpose to which each subject of [the] initiative petition can reasonably be said to be germane."
Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

Restrictions on the Dedication of Revenue

Initiative measures that mandate the expenditures of large amounts of public revenue without including a new dedicated revenue source (such as taxes or fees) can make it difficult for the legislature to continue to fund existing state services and programs. In addition, initiatives that increase or create new taxes to fund new or existing programs negatively affect the legislature's ability to impose reasonable taxes to fund necessary programs for citizens. Although the task force agreed that initiatives limiting or dedicating revenue or otherwise imposing fiscal policies can be a significant problem—perhaps even the most serious problem—in the initiative process, members were unable to agree on a specific recommendation to address the issue.