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*The right reserved to the people to approve or reject an act of the legislature, or the right of the people to approve or reject legislation that has been referred to them by the legislature.*

The referendum power is created by state constitutions and is conferred on the citizens of a state or a local subdivision of the state. Referendum provides the people with a means of expressing their opinion on proposed legislation before it becomes operative as a law. The power of referendum does not permit the people to invalidate a law that is already operative but suspends or annuls a law that has not yet gone into effect. In this sense, referendum is similar to a governor's [Veto](#) power. Also, by referendum the people may reinstate an act that the legislature has expressly repealed.

The referendum, along with the *initiative*, are the two forms of direct legislation adopted by many states during the direct democracy movement of the early twentieth century. Referendum allows the people to state their opinion on laws that have been enacted by the legislature, and the initiative allows the people to propose their own laws. Thus, in the states that have adopted the initiative and referendum, the people essentially form another branch of the legislature, having the ability both to enact laws and to overturn laws passed by the elected legislature but not yet in effect. An initiative or a referendum passed by the people has the same force and effect as any act of the legislature. A referendum may be challenged on constitutional grounds, on grounds that proper procedures were not followed in the referendum process and election, or on grounds that the referendum or initiative was outside the scope of authority granted by the state constitution. Also, in some states the governor may veto an initiative or referendum.

The general initiative and referendum were first adopted in the United States in South Dakota in 1898, and many states soon followed. The movement toward direct legislation did not grow from a desire of the people to exercise the legislative function directly. Rather, many people distrusted their legislative bodies, believing that large corporations and powerful groups of individuals were corrupting legislation. The power of referendum made most legislation subject to the will of the people.

The referendum power is derived solely from a state's constitution and applies to that state's laws; people do not have the right to challenge federal legislation by referendum. The right of referendum and the procedure to be followed in exercising the referendum right are set forth in the state's constitution and statutes. The referendum process is essentially the same in every state. First, there must be a petition for referendum that states, among other things, the title and nature of the legislative act the petition seeks to have submitted for referendum. The petition is then circulated for signatures. Generally, anyone eligible to vote may sign a petition for

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referendum, even if he or she is not registered to vote. When the required number of signatures is collected, the petition is filed. If the petition is certified as sufficient, the referendum measure is placed on the election ballot for approval or rejection by the people. If the required number of votes, usually a majority of the votes cast, are in favor of the referendum, it passes. Usually, the people vote on a referendum measure during the general election, but special referendum elections also may be held.

In some states there is no limit on the referendum power, and any law may be challenged by referendum. In many states, however, the constitution creates exceptions to the referendum power for certain types of legislation. Commonly, constitutional provisions regarding referendums create an exception for laws necessary for the support of the state government and state or public institutions, because a referendum on any such measure might cause a branch of the government to cease to function. This exception applies mainly to tax and appropriation measures. Also, most states create an exception to the referendum power for laws necessary for the immediate preservation of the public peace, health, or safety, thereby allowing the legislature to exercise the [Police Power](#) unimpaired. Finally, measures declared by the legislature to be emergency measures are usually not subject to referendum.

### Further readings

Coury, Christopher A. 1994. "Direct Democracy through Initiative and Referendum." *Notre Dame Journal of Law, Ethics and Public Policy* 8.

Warner, Daniel M. 1995. "Direct Democracy: The Right of the People to Make Fools of Themselves; The Use and Abuse of Initiative and Referendum, a Local Government Perspective." *Seattle Law Review* 19 (fall).

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**referendum** n. the process by which the repeal or approval of an existing statute or state constitutional provision is voted upon. Many states provide for referenda (plural of referendum) which are placed on the ballot by a required number of voter signatures on a petition filed.

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**referendum** *noun* [ballot](#), [decision](#), [determination](#), [discretion](#), [election](#), [expression of choice](#), [mandate](#), [plebiscite](#), [poll](#), [popular choice](#), [popular decision](#), [popular vote](#), [preference](#), [say](#), [selection](#), [voice](#), [vote](#)

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REFERENDUM, international law. When an ambassador receives propositions touching an object over which he has no sufficient power and he is without instruction, he accepts it ad referendum, that is, under the condition that it shall be acted upon by his government, to which it is referred. The note addressed in that case to his government to submit the question to its consideration is called a referendum.

A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier. Published 1856.

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