



TO: **Interested Parties**  
FROM: **Heather Williams, President of the DLCC**  
DATE: **May 2, 2024**  
RE: **Memo: Ballot Measures and the Importance of Building State Legislative Power**

The fall of *Roe* has thrown the future of our fundamental freedoms to the states, and over the past few election cycles, we have seen the increased importance of political power at this level of the ballot as Democrats and Republicans pursue and enact starkly different agendas.

Twenty-five states—[all controlled by Republican state legislatures](#)—have now implemented or enacted laws to ban abortion earlier than the standard previously protected by *Roe*.

**As a result, over 165 million people currently live in states with abortion bans.** Meanwhile, Democratic majorities have consistently taken steps to protect these rights. The Democratic Legislative Campaign Committee (DLCC) is leading the work to fight back against Republican control and to build and expand Democratic power in the state legislatures that are on the frontlines of determining abortion laws.

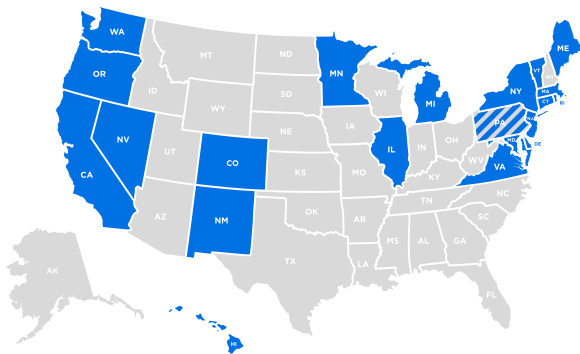
As the battle for control of state legislatures continues, another vehicle for action on reproductive freedoms has emerged: direct referendums that can allow voters to advance abortion protections by amending state constitutions. At the DLCC, we are watching and learning from these efforts, including the effort to fight back against a proposed anti-abortion constitutional amendment in [Kansas](#) in August 2022, and the effort to [enshrine protection for abortion](#) into the Ohio Constitution in November 2023.

**We know the future of reproductive freedoms is first and foremost being decided in state legislatures and we also believe harnessing the power of ballot measures this cycle will be essential as we fight to win new majorities and protect the rights of millions of Americans.**

Elections for candidates and ballot measures across the country since 2022 have shown us voters have had enough and are ready to stand up and fight back against Republicans' onslaught of attacks on reproductive care.

2024 will be a critical year in our effort to protect the rights of millions of Americans in the states. The following memo outlines the interplay of ballot measures and state legislatures, the best methods to protect fundamental freedoms, and where our best opportunities and biggest challenges will be in the fight against Republicans' onslaught of attacks on reproductive care.

## Democratic Legislatures as a Firewall for Our Freedoms



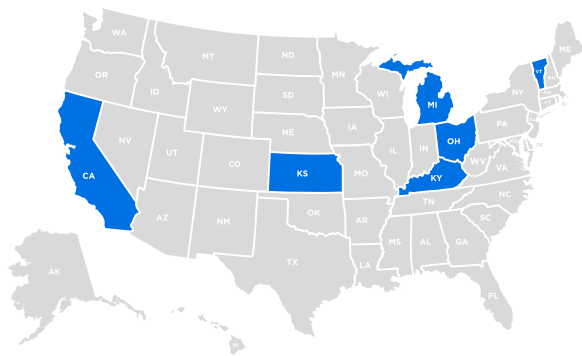
Thanks in part to the DLCC's victories in recent election cycles, for the first time in more than a decade, more people live under Democratic trifectas in the states than under Republican trifectas. It is Democratic legislative power that is protecting the rights of over 150 million Americans or nearly half the country's population.

**Since *Roe* fell, every legislative majority under Democratic control has taken steps to protect or expand abortion rights.**

**Our legislative victories in just 2022 alone protected or expanded reproductive rights for over 64 million people or around 1 in 5 Americans.** And since 2022, 16 Democratic-led state legislatures have passed laws that provide safeguards for those seeking or providing abortions from laws in other states.

Democratic majorities are also taking bold action to address the broader spectrum of reproductive rights, which are not always addressed in single ballot measures. This includes eliminating restrictions on abortion providers, expanding access to contraception, and supporting IVF access—all of which are essential to shaping the landscape of our rights. Still, there are several signs and trends from recent ballot measures that are instructive for further understanding the electorate.

## How Ballot Measure Victories Have Fared Since 2022



Since *Roe* fell in 2022, six states—California, Kansas, Kentucky, Michigan, Vermont, and Ohio—have **voted on abortion-related constitutional amendments, and the side favoring access to abortion prevailed in every single one of those states.**

What’s notable is the power of these referendums to turn out voters in red states like Kansas and Ohio.

## The Limitations of Ballot Measures

Despite the overwhelming success of these ballot measures and the clear mandate from voters who are showing that they want their reproductive freedoms protected, a concerning trend has also emerged: **State Republicans don’t respect these ballot measures and are willing to threaten and introduce legislation to roll these hard-fought victories back:**



- ▶ In Ohio, less than a month after the constitutional amendment was voted into law, Ohio Republicans began working overtime to **undermine** this amendment. They threatened to use their supermajorities to strip the state courts of their power to enforce it, **introducing** legislation to give authority over the amendment’s implementation to the GOP legislature and undermining the will of voters.



- ▶ In Kansas, at the start of their legislative session in January, state Republicans **introduced** extreme legislation to ban abortions across the board. Despite voters resoundingly rejecting an anti-abortion measure in 2022, Kansas Republicans have repeatedly ignored voters and attacked abortion by creatively cutting access and **creating barriers** at the margins—effectively going around voters to limit reproductive rights.

These attacks on two of the most high-profile ballot initiatives since *Roe* fell highlight a fundamental lesson:

**Ballot measures can move the needle to protect abortion access, but those protections remain in jeopardy unless elected state officials are committed to passing and defending laws that protect the sanctity of these measures and fundamental freedoms.**

Ballot measures can be an immediate or initial fix, but the long term building of power in state legislatures is the most effective way to fully stop Republicans across the country who have proven that they will continue to chip away at successful ballot measures.

More so, only 17 states currently enable citizens to put constitutional amendments on the ballot. The majority of states with a full or partial abortion ban—15 states, including many battlegrounds like Wisconsin and Pennsylvania—do not have a pathway for citizens to place potential constitutional amendments on the ballot. That means that in these states, residents can't introduce pro-abortion ballot measures to challenge the abortion bans currently on the books. In these states, only the legislature could introduce legislation or a pro-abortion ballot measure to appear before voters, illustrating why state legislatures continue to be the primary arbiters of abortion rights for millions.

Still, abortion ballot measures will be a factor shaping the electoral landscape in 2024, and the DLCC is watching and preparing to maximize the impact of ballot measures in key districts as we work to build power and elect state legislative majorities across the country.

## The Ballot Measure Landscape in 2024

As of April 2024, at least 13 states have already considered or are working to place abortion-related measures on the November ballot, including:

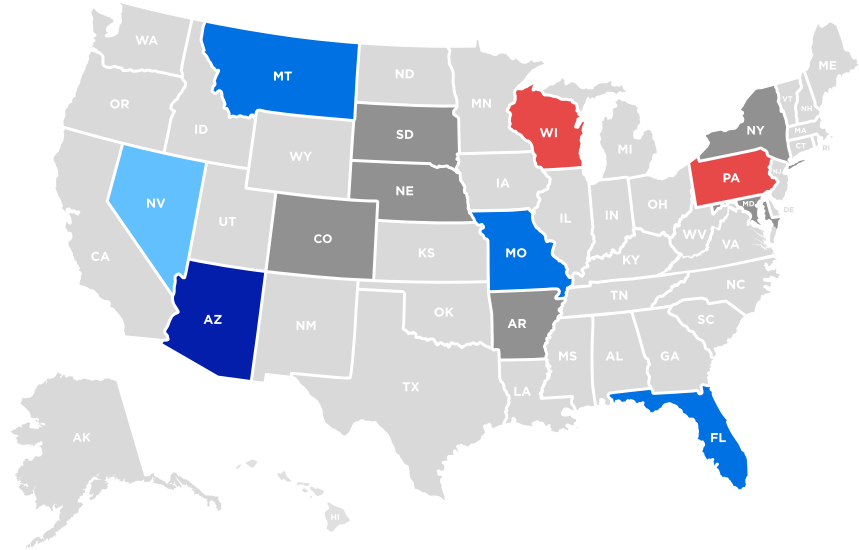
- ▶ Arizona for Abortion Access coalition's measure to protect abortion up to viability and protect the life or health of the pregnant person.
- ▶ Floridians Protecting Freedom's petition to protect the right to an abortion up to viability and when necessary to safeguard the pregnant person's health.
- ▶ Missouri's Right to Reproductive Freedom Amendment, which would protect the right to birth control, and protect abortion up to viability.
- ▶ Montanans Securing Reproductive Rights' initiative to pass a constitutional abortion rights amendment.
- ▶ Nevada's Right to Reproductive Freedom Amendment to codify abortion laws into the state's constitution.

Meanwhile, there are also GOP-proposed ballot measures that will not be on the ballot in November, thanks to Democratic lawmakers:

- ▶ Pennsylvania's No State Constitutional Right to Abortion
- ▶ Wisconsin's 14-week abortion ban referendum

**Every ballot measure and each state is different, and we believe there are four main categories for understanding the interplay between ballot measures and state legislative opportunities this cycle:**

- Ballot measures to protect rights in legislative battlegrounds
- Ballot measures to restrict rights in legislative battlegrounds
- Ballot measures to protect rights where Republicans hold entrenched power
- Ballot measures to solidify the gains of Democratic legislative majorities
- Other potential 2024 abortion ballot measures



Source: [Washington Post](#)

## ■ Ballot Measures to Protect Rights in Legislative Battlegrounds

Some ballot measures this cycle will be in states where new state legislative majorities are within reach for Democrats. While building majorities in legislatures is the top priority to protect and expand rights, ballot measures can help further define the contrast and the stakes of the elections and help bring voters to the ballot box.

We saw this type of ballot measure in Michigan in 2022 when a ballot measure to enshrine reproductive rights in the state constitution helped define a key issue of the election and turn out voters across the state. That same November, buoyed by the stakes for fundamental freedoms, Democrats also successfully flipped the legislature blue—setting up a Democratic trifecta that was then able to go even further by codifying a broader range of rights and protections for Michigan’s 10 million residents.

There is one 2024 battleground state where the overlap between ballot measures and a competitive state legislature is clear:



- ▶ Arizona Republicans currently hold a two-seat advantage in both the state House and the state Senate. These narrow GOP majorities make Arizona’s chambers among the top flip opportunities this cycle and the DLCC has already invested six figures into the Arizona joint caucus to do just that.
- ▶ Especially in the wake of the backlash to the 1864 total abortion ban and the existing 15-week abortion ban, abortion has become a key issue that could help drive turnout for Democrats to win up and down the ballot.

- ▶ While organizers for ballot measures conduct direct voter contact, state legislative candidates who know their communities best are also going door to door to turn voters out—creating unified community-based organizing and grassroots campaigns centered on reproductive freedoms.

## ■ Ballot Measures to Restrict Rights in Legislative Battlegrounds

In some states, there are no ballot measures this year, precisely because Democrats in the state legislatures are maintaining a firewall against Republican attacks. Even when a state has a Democratic governor, some state legislatures can use tactics to circumvent the governor’s veto and still place dangerous ballot measures on the ballot. Preventing this from happening requires a focused effort to build and expand power for Democrats in state legislatures.

Two states that are top priorities for the DLCC this year will keep anti-abortion measures at bay. We believe it is important to make sure voters know the stakes of state legislative elections in the following states:



- ▶ When Pennsylvania Republicans controlled both chambers of the legislature in 2022, they passed a potential constitutional amendment to declare there was no constitutional right to abortion. If the bill were to pass again this session, it would bypass the governor and automatically be placed on the ballot.
- ▶ Fortunately, that process was stopped when Democrats won the House in November 2022. The DLCC has since helped defend our one-seat majority in 6 special elections, keeping Democrats in the majority and protecting the reproductive rights of millions of Pennsylvanians.
- ▶ The DLCC has already invested over six figures to defend the Pennsylvania House in November while also looking to gain ground in the Pennsylvania Senate to ensure Democrats can continue to protect the rights of millions of Pennsylvanians.



- ▶ Republicans in the Assembly recently passed a 14-week abortion ban referendum, which would have put the measure before voters. However, facing a likely veto from the Democratic governor, the Republican Senate did not take the bill up before the session adjourned, so the Republican measure will not be on the ballot this year.
- ▶ However, if Republicans were to gain a full legislative supermajority in Wisconsin, they could resume this strategy, illustrating the importance of protecting Gov. Evers’ veto power and looking for new opportunities on the new maps in Wisconsin to grow Democratic power in the state legislature.
- ▶ The DLCC has Wisconsin on our target list and has already invested multiple times in each of the legislative chambers.

## ■ Ballot Measures to Protect Rights Where Republicans Hold Entrenched Power

The DLCC’s primary mission is to build Democratic power in the states, and we consider all levers of power available in this effort. In states where Republicans hold entrenched power in

the legislature alongside Republican governors, ballot measures may be the best short-term solution to protect rights while also giving us insights into tactics and strategies to win future legislative battles.

As discussed above, we have seen Republican majorities move quickly to undermine ballot measures, so while we work to highlight the importance of the initiatives in these states, we also must stay on guard against continued Republican attacks. As we look for lessons in the outcomes this year, Democrats must think about how we can simultaneously support and build the long-term path to increased power at this level of the ballot all across the country.

A few examples of the states where ballot measures are up against entrenched Republican power include:



- ▶ Thanks to gerrymandering, Republicans have supermajorities in both chambers of the state legislature along with a Republican governor who is hostile to fundamental freedoms.
- ▶ Though Democrats celebrated Tom Keen's [victory](#) in a special election in January, which marked the first legislative flip of the year, state Republicans are entrenched and there is still a long road ahead to build back the Democratic power Floridians need.
- ▶ In the short term, voters have an opportunity this year to send a message via a ballot measure of their support for abortion rights. If the measure passes, we will continue to look for ways to hold the legislature accountable if they work to undermine it.



- ▶ Republicans hold supermajorities in both legislative chambers in Missouri and also have a Republican governor ready to attack reproductive freedoms.
- ▶ Given the current balance of power, Missouri's Right to Reproductive Freedom Amendment provides a viable path for protecting abortion rights in the immediate future.
- ▶ Not only that, but the performance of this measure could provide a roadmap of areas for potential Democratic inroads if the maps were to change in this current Republican stronghold. For a similar example, the performance of the pro-reproductive rights vote in Kansas in 2022 gives us additional data points on the same battleground districts that the DLCC is now targeting in 2024.



- ▶ Republicans currently hold narrow supermajorities in both chambers as well as the governorship and have repeatedly used their governing trifecta to undermine abortion rights.
- ▶ Montanans Securing Reproductive Rights is currently campaigning to place an abortion rights constitutional amendment on the ballot this year, and similar to Missouri and Kansas, this ballot measure could highlight potential swing districts where Democrats could break the current GOP supermajorities and build power seat by seat.

## ■ Ballot Measures to Solidify the Gains of Democratic Legislative Majorities

In 2024, several ballot measures will appear in states with Democratic majorities or even Democratic trifectas. These measures will cement abortion protections into state constitutions and could boost turnout for competitive races at every level of the ballot.

Alongside ballot measures related to reproductive rights and protections being considered in states with Democratic trifectas like New York and Maryland, the measure in Nevada will help further protect rights as the Democratic legislature contends with a Republican governor.



- ▶ Democrats are currently one Senate seat away from having a supermajority in the legislature, ensuring Republican Governor Lombardo does not have the power to take Nevada backward.
- ▶ Nevada’s Right to Reproductive Freedom Amendment provides a tool to advance and complement the work of the Democratic-led legislature, as well as circumvent any potential obstruction from the GOP governor, to lock in reproductive protections for generations of Nevadans to come. With closely contested races across the ballot in 2024, this measure could also help drive energy and turnout.

## Conclusion

2024 is the most important year in state legislative campaign history to protect fundamental freedoms and reproductive rights. With so much on the line, building state power has never been more essential. As potential abortion ballot measures play out in a dozen states, **it’s essential we work in all 50 states** to elect Democrats to state legislatures who will champion fundamental freedoms and push back against GOP attacks.

As the official arm of the Democratic Party with the sole mission of building Democratic power in the states, the DLCC is leading the fight to set the national agenda to protect reproductive rights and freedoms at the state level **The DLCC is on offense in 2024 with a \$60 million target budget—the largest to date—as well as our most expansive target map ever and a commitment to ensuring voters know that their fundamental freedoms are on the line in the states.** The DLCC is committed to working with partners on the ground to identify opportunities to build majorities, seat by seat and community by community and our [multi-cycle strategy memo](#) outlines our path to gain a majority of state legislatures by 2030 to shape redistricting and transform power in the country.

There’s never been a better time to join the DLCC’s efforts, as we continue to build state infrastructure for now and in the future. Join our [Down Ballot Defenders](#) community or visit [DLCC.org](#) to learn more about how to get involved.