

Arizona's Direct Democracy

ARIZONA BALLOT PROCEDURES

Constitutional initiative

- Allows citizens to write and enact constitutional measures
- Needs petition signed by 15%* to get on ballot

Statutory initiative

- Allows citizens to write and enact ordinary laws
- Needs petition signed by 10%* to get on ballot

Constitutional referendum

- Allows citizens to vote on constitutional measures proposed by the legislature
- Needs majority vote by Legislature to get on ballot

Statutory referendum by citizen petition (Popular referendum)

- Allows citizens to block an ordinary law** enacted by the Legislature
- Needs petition signed by 5%* within a 90-day time limit to get on ballot

Statutory referendum by legislative referral

- Allows citizens to approve or reject an ordinary law proposed by the Legislature
- Needs simple majority vote by Legislature to get on ballot

Recall

- Allows citizens to remove an official from office
- Needs 25%*** to call recall election

* Percent = number that voted for governor in last election.

** Cannot be used to block: (1) laws with emergency clauses; (2) funding bills to support of government; and (3) new tax laws.

***Percent = number that voted for that office in last election.

What is direct democracy?—Direct democracy refers to a system where the citizens literally govern themselves rather than relying upon elected or appointed officials. Although some of America's earliest towns operated on this basis, America's Founders rejected direct democracy when they wrote the U.S. Constitution in 1787. They viewed it as both impractical and unwise. However, in the late 1890s the Progressive Movement was highly critical of state and local governments. Progressives believed that these governments were being controlled by corrupt party bosses, political machines, and powerful corporations. According to the Progressives the only way to restore honest government was to give the citizens more power. Accordingly, they pushed for the adoption of the initiative (to allow citizens to bypass officials and enact their own statutes and constitutional measures), the referendum (to allow citizens to reject statutes and constitutional measures adopted by officials), and the recall (to allow citizens to remove officials from office before the end of their terms). In 1898, South Dakota became the first state to adopt the initiative and referendum; eight states quickly followed suit. Ten years later Oregon became the first to adopt the recall. Currently about two dozen states, mostly located in the west, have adopted some or all of these ballot procedures.

Arizona adopts direct democracy after a struggle—Arizona became a state during the peak of the Progressive Movement in 1912. Most of the drafters of Arizona's constitution were ardent Progressives, so it is no surprise that the state's constitution included the initiative, referendum, and recall. However, President Taft—a staunch opponent of direct democracy—vetoed Arizona statehood because the state constitution permitted the recall of judges. Arizona was forced to eliminate the recall of judges in order to become a state. However, as soon as Arizona attained statehood it promptly restored judicial recall!

Direct democracy in practice: (1) the initiative—From the beginning Arizonans used their initiative procedures in significant, controversial, and sometimes fickle ways. For example, at the state's very first election in 1912 the (all-male) voters used the initiative process to extend suffrage to women. Voters eliminated and then restored the death penalty (1916, 1918); approved and subsequently repealed Prohibition (1914, 1932). Major governmental changes have been made through the initiative process: the adoption of term limits (1992), merit selection for judges (1974), and the creation of a citizen redistricting commission (2000). In 1958, students used the initiative process to change the name of Arizona State College to Arizona State University after the legislature (which was partial to the U of A!) refused. The state lottery was created through the initiative process (1980), and multiple animal rights measures have also been approved through this means (1994, 1998, 2006). Arizonans used the initiative process to raise taxes on cigarettes (1994, 2006), ban smoking in most public locations (2006), approve a medical marijuana and decriminalization measure (1996), increase the penalties for methamphetamine offenses (2006), raise the minimum wage (2006), restrict bilingual education (2000), and deny benefits to undocumented immigrants (2004, 2006).

(2) The referendum by citizen petition—Citizen-triggered referenda to block laws approved by the Legislature are far rarer than initiatives. In fact, they have only been successfully used 17 times since statehood. Most controversially, this process was used to delay the recognition of a Martin Luther King, Jr. holiday (1988), and to prevent the Legislature from gutting a citizen marijuana initiative (1998). But the limited use of this device understates its importance: The mere *threat* of a citizen referendum has sometimes caused the Legislature to repeal a law on its own or to abandon a measure that it might have enacted but for the referendum threat.

(3) The recall—Although recall is frequently used at the local level, it is rarely employed against state officeholders. (This is mostly because it is too difficult to satisfy the 25% signature requirement since more than a million people typically vote for governor.) However, the voters managed to collect enough petition signatures to trigger a recall election of Governor Mecham in 1988. Before the scheduled recall election took place the state legislature removed the governor from office using the impeachment process. The recall election was then cancelled by order of the Arizona Supreme Court. Finally, despite President Taft’s concerns, only one judge has ever been recalled.

Recent modifications—In the late 1990s, Arizona voters grew frustrated with the Legislature’s habit of altering voter initiatives soon after they were enacted. When the Legislature attempted to gut a recently-passed marijuana initiative the citizens rebelled. In 1998 they used the initiative process to enact the Voter’s Protection Act. This changed the state constitution in three significant ways: (1) It prohibits the governor from vetoing any citizen-approved measure; (2) it prohibits the Legislature from repealing such measures; and (3) it permits the Legislature to amend a citizen-approved measure only if the amendment furthers the purpose of the citizen measure and passes by three-quarters majority. Essentially, this makes citizen-approved measures virtually unalterable except by a subsequent vote of the people. On the flip side, in 2004 the voters approved a restriction on the initiative process that was proposed by the Legislature. The Legislature was frustrated about having to come up with the funds to pay for costly new programs proposed by the citizens. Now, citizen initiatives must establish their own special funding sources.

Pros and Cons of Direct Democracy—Since President Taft worried that recall would intimidate judges, direct democracy has attracted critics. Some contend that the typical citizen is not adequately informed to make sound decisions on state complex laws and policies. Because citizen initiatives do not undergo any governmental review, they are often poorly drafted and generate costly legal challenges due to vagueness, conflicts with other laws, or unconstitutionality. In comparison to the regular lawmaking process, the initiative process does not allow for compromise and some measures are too extreme. (For example, an anti-abortion measure (1992) and a ban on same-sex marriages (2006) arguably failed because they were too sweeping.) Citizen measures sometimes target unpopular minorities such as homosexuals and immigrants and thereby exacerbate social tensions. Because the cost of collecting sufficient signatures and advertising an initiative can be prohibitive, the initiative process is often successfully used only by big businesses or the wealthy. In fact, on several occasions outsiders—individuals and businesses not resident in Arizona—have exploited the process to change the state’s laws. Finally, direct democracy takes power away from elected officials, often making it more difficult for them to govern. This is especially true with respect to citizen measures that limit the government’s ability to raise needed revenues.

On the other hand, defenders of direct democracy argue that it often provides the only way to reform government since legislators are not likely to adopt measures that reduce their own powers or perks. Arizona’s campaign finance reforms, redistricting reforms, and term limits would not have passed except through the initiative process. Direct democracy also gives citizens a way to counteract the effects of powerful lobbyists and special interests that often hold sway over the legislature. They provide an avenue for powerless groups to “take their case” to the people, such as the Salt-River Pima-Maricopa Indians who used the process to win the right to operate casinos when officials said no. Finally, some argue that ballot measures promote a more engaged citizenry and healthier democracy. They make state and local elections more interesting, focus attention on issues as opposed to candidate personalities, allow social solutions to come from a broader pool of people, and provide a safety valve for angry and alienated citizens.

RECALL PRIMER	
Who can be recalled: Any state or local official	
When can a recall be called: After 6 months for all officials other than state legislators (5 days after start of first session for legislators.)	
Grounds for recall: Anything	
Procedure:	
1. Citizen petition signed by 25% of the total vote for that office in the last election.	
2. If official refuses to resign, a recall election is scheduled. All qualified candidates can run against the incumbent. Whoever gets the most votes wins the office. If the incumbent wins he/she remains in office and no other recall can take place during that term unless the proponents pay the cost of the prior recall election.	
CITIZEN PETITIONS ON THE BALLOT 1912 —2006	
Constitutional initiative	
On the ballot:	61
Passed:	26 (43%)
Statutory initiative	
On ballot:	102
Passed:	42%
Referendum by citizen petition	
On ballot:	34
Passed:	50%
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Arizona Redistricting

The population of Arizona was 5,130,632 on April 1, 2000. Dividing this number by 30 (the number of Arizona state legislative districts) gives a target population for each district of 171,021.

A GERRYMANDERING PRIMER

How district boundaries can alter election outcomes

1. Imagine a state composed of 2/3 Republicans, 1/3 Democrats:

R	R	D
R	R	D
R	R	D

2. Three equally-populated districts can be made by dividing the state vertically. This map would probably elect 2 Republicans and 1 Democrat, matching the ratio in the general population:

R	R	D
R	R	D
R	R	D

R R D

3. However, dividing the state into horizontal districts would likely produce a very different outcome:

R	R	D	▶	R
R	R	D	▶	R
R	R	D	▶	R

What is redistricting and why is it necessary?—Legislatures are supposed to be representative bodies that understand the needs of citizens. If the members of the state legislature all came from Phoenix, people living in Tucson, Yuma, and other places might be distrustful of the laws it made. Accordingly, Arizona elects its legislators from separate districts throughout the state. Each district must have the same population otherwise those living in dense, urban areas would have less representation than those living in sparsely populated rural areas. This was precisely the situation in Arizona prior to 1966. The 7,736 people living in Mohave County had as many senators as the 663,510 people residing in Maricopa County! Inequities like this existed throughout the nation and led to a series of lawsuits (the “Reapportionment cases”) in the early 1960s. The U.S. Supreme Court declared that unevenly populated voting districts violated the Constitution’s guarantee of “one man, one vote.” It ordered the states to: (1) redraw their legislative districts to ensure that every voting district had the same number of people; and (2) repeat the process after every decennial census to ensure that the districts remained fair over time. Three federal judges imposed a new district system on Arizona in 1966 when the state’s Democrats and Republicans couldn’t agree on a plan. The state was divided into 30 equally-populated districts, with one senator and two representatives elected from each district. The 30 districts were redrawn following the 1970, 1980, 1990 and 2000 census. The next redistricting will take place after the 2010 census.

The problem of gerrymandering—Frequent redistricting solves the problem of population shifts but it doesn’t prevent gerrymandering. Legislative districts are supposed to be contiguous, compact, and aligned with the natural neighborhoods. Gerrymandering violates these principles. When it is time to redistrict, various groups push to have district boundaries drawn in a way that will give an unfair advantage to their party, group, or candidate. (See the sidebar for a simple illustration of how this works.) Gerrymandering typically results in very odd-shaped districts. In fact, the term comes from an 1812 political cartoon that resembled a salamander (see reverse sidebar). The primary practitioners of gerrymandering are the two main political parties which compete for majority control of the legislature. In Arizona, the Democrats used gerrymandering to enhance and preserve their majority status up to 1966; since then the Republicans have gained the most from gerrymandering. However minority groups (such as Hispanics in Arizona) also try to gerrymander in order to create artificial districts likely to elect more minority candidates (“majority-minority districts”).

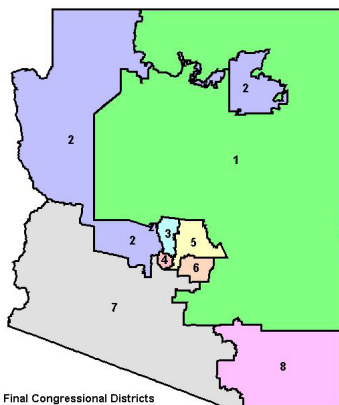
How gerrymandering works—Gerrymandering uses voter registration data for every household, with computers making the task easier than ever before. “Fracturing” is one common technique. It involves splitting the opposition into multiple districts to dilute its voting strength. Arizona Republicans tried this in 1971 when they carved the Navajo Reservation (a Democratic stronghold) into 3 separate districts to reduce the Navajos’ voting power. The Navajos sued and a federal judge blocked this gerrymander. “Packing” is another technique. It involves confining the opposition to a few super-strong districts that waste votes. At the same time packing removes the opposition from many more surrounding districts, giving the gerrymanders an overall gain in seats.

The harms of gerrymandering—Gerrymandering corrupts the political process in multiple ways. Most obviously, it gives the successful party more seats in the legislature than its proportionate strength among the voters. However, there are more serious consequences than unfair partisan gain. Gerrymandering creates mostly “safe” or non-competitive districts for both parties. The very goal of gerrymandering is to fix the district boundaries so that one party or the other is virtually guaranteed to win. This reduces or eliminates electoral competition. That is, when a party has a lopsided numerical advantage in a district serious

candidates from the opposing party do not even bother to run. (It makes little sense to waste time and money on a campaign that is doomed to fail.) In 1998, *63% of all Arizona senate races had no opposition from the other major party*. (In the last November 2006 election, 27% of the Senate districts had no opposition from the other party, and 70% of the House races had diminished competition: i.e. only 3 major contenders for 2 seats.) Lack of competition allows unqualified candidates to gain office. It causes voters to lose interest in elections and thereby depresses turnout for other races. And it reduces the accountability of legislators to their constituencies. A legislator who is virtually guaranteed reelection has less incentive to respect the wishes of the voters. In short, gerrymandering turns elections—the critical underpinning of a democracy—into sham proceedings.

An attempt to end gerrymandering—In November 2000, Arizona voters approved Proposition 106, a sweeping constitutional initiative designed to end gerrymandering. The job of drawing districts was taken away from the Legislature and given to a new, five-person commission. (To insure political independence, no more than two members of the appointed commission can be of the same party.) According to the constitutional amendment, the Commission must start with equally populated districts that totally ignore partisan data and the residences of incumbents and candidates. However, the Commission is then allowed to “adjust” the boundaries of the districts to enhance: (1) voting rights; (2) equal population; (3) geographic compactness; (4) “communities of interest;” (5) the geographic integrity of local governments; and (6) party competition. In other words, the Commission is supposed to consider party affiliation data at the end, but only to make the districts more balanced, not less. See Ariz. Const. Art. 4, pt. 2, sec. 1(3) et seq.

The result—new gerrymanders and lawsuits!—In 2001, the newly-appointed Arizona Independent Redistricting Commission went to work using the latest census data. It started with a grid-like map as required. So far, so good. However, following a series of public hearings the Commission began adjusting the boundaries to accommodate the constitutionally permissible 6 goals listed above. Interested parties appeared before the Commission and demanded various changes. For example, school districts and other local governments did not want to be split among multiple districts. Neighborhoods wanted to be kept together. Hispanic voters, regarding themselves as a “community of interest,” wanted boundaries adjusted to create more Hispanic-majority districts. The Commission complied with many of these demands, deeming them more important than the achieving the sixth goal of competitive districts. In the end, the Commission produced a gerrymandered map where *only 4 of the 30 districts were competitive!* As in past decades, a lawsuit followed. The trial court ruled that the Commission should have created a few more competitive districts, but the state’s appellate courts allowed the Commission’s map to be used in the 2006 election. As of this writing, a legal fight remains over the map to be used in the 2008 and 2010 elections.



Final Congressional Districts

A postscript on Arizona’s other districts—The Independent Redistricting Commission also draws Arizona’s 8 congressional districts, using the same constitutional guidelines. As the adjacent map plainly reveals, the federal districts are gerrymandered as well, notably district 2. (The odd shape of this district was done to accommodate the Hopi’s wish not to be included in the same district as the Navajo Reservation.)

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THE ORIGINAL GERRYMANDER



The term “gerrymandering” comes from an 1812 cartoon that poked fun of a Massachusetts electoral map. The cartoonist thought that the map resembled a salamander and branded it a “Gerrymander” since the governor’s name was Gerry.

GERRYMANDERING RESULTS

Party affiliation of Arizona voters*

Republicans:	40%
Democrats:	33%
Others:	27%

Party composition of the Arizona Legislature:

Senate

Republicans:	57%
Democrats:	43%
Others:	0%

House of Representatives

Republicans:	55%
Democrats:	45%
Others:	0%

*As of the November 2006 General Election

LINKS

Arizona Redistricting Commission (interactive maps):
www.azredistricting.org/

Arizona election data:
www.azsos.gov/election/

Register to vote online!
<https://az.gov/webapp/evoter/>

The Governor's Veto Power

GOVERNORS WITH A MIGHTY VETO PEN



Governor Bruce Babbitt (D)
1978-1987



Governor Fife Symington (R)
1991-1997



Governor Jane Hull (R)
1992-1997

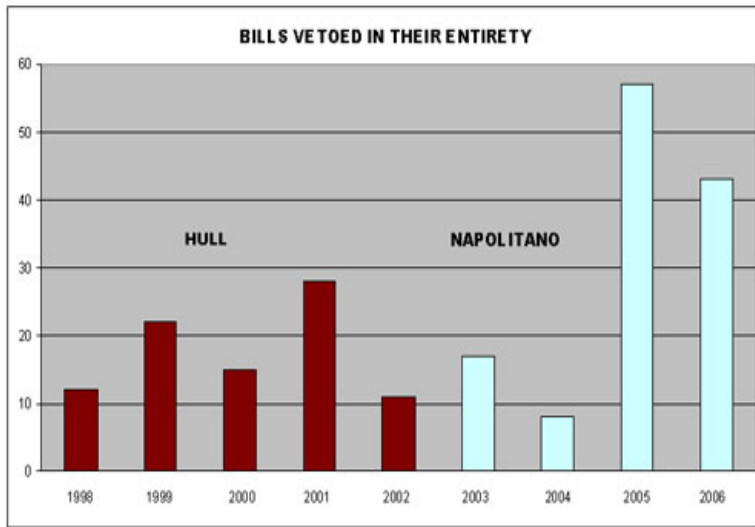
Overview—Arizona governors are not members of the Legislature. But they possess three constitutional powers that allow them to profoundly influence the lawmaking process: (1) The duty to recommend new laws every session; (2) the power to call the legislature into a special session and thereby focus the legislature's attention on matters of specific concern; and (3) the veto power. It is the latter that gives governors the most clout. And it is the most controversial. Actually, Arizona governors possess two types of vetoes: the regular veto, and the line-item veto, which are described below.

How the veto powers work—All bills, other than those sent to the people through the referendum process, must go to the governor. If the governor doesn't approve the bill, he/she can return it to the legislature with written objections.¹ Unless the legislature can muster a supermajority vote² to override the governor's veto, the bill is killed. In Arizona, veto overrides are extraordinarily rare; the governor's veto almost always "sticks." The regular veto applies to all bills; the line-item veto applies only to appropriation (spending) bills. With the regular veto, the governor must veto the bill in its entirety. The line-item veto, however, enables the governor to strike down one or more items in an appropriations bill while approving the remainder. It is a weapon that enables the governor to curb excessive government spending. (The president lacks such a power.)

The veto in action—In the past, Arizona governors rarely exercised the veto power. Things changed when Bruce Babbitt (D) became governor in 1978. He was opposed by a Republican-controlled legislature and a powerful speaker of the house. Ordinarily, a governor in these circumstances would not be able to get his agenda enacted. However, Babbitt used the veto power to get his way. Unlike his predecessors who typically waited for the bills to reach the governor's desk, Babbitt got involved in the lawmaking process from the beginning. When he didn't like the language of a particular bill, he would threaten to veto it unless the bill were modified. Initially, the legislature ignored his threats, thinking the governor was bluffing. But after Babbitt followed through with a record number of vetoes the legislature was forced to take his veto threats seriously. Later on, Babbitt also used the veto power to get the legislature to pass Democratic bills that he wanted. He did this by threatening to veto bills favored by Republican leaders. In using the veto power in such an aggressive way Babbitt demonstrated that a governor could be a major force in the lawmaking process even if the legislature is controlled by the opposing party. Governor Fife Symington (R) was a surprisingly aggressive vetoer as well. Surprising, because for most of his tenure the legislature was controlled by his own party. In such situations vetoes are normally rare—you'd expect party leaders to be on the same page. However, Symington wanted to exert strong leadership. Early on, when he demanded changes to bills backed by a veto threat, the legislature wrongly assumed that he wouldn't follow through. After he did, they were forced to take his veto threats seriously. Symington's successor, Governor Jane Hull (R), was also quite liberal with the veto pen. Like Symington, her vetoes were somewhat surprising because she, too, was vetoing legislation of her own party. In fact, four of her vetoes were overridden by the legislature—a rarity in Arizona.

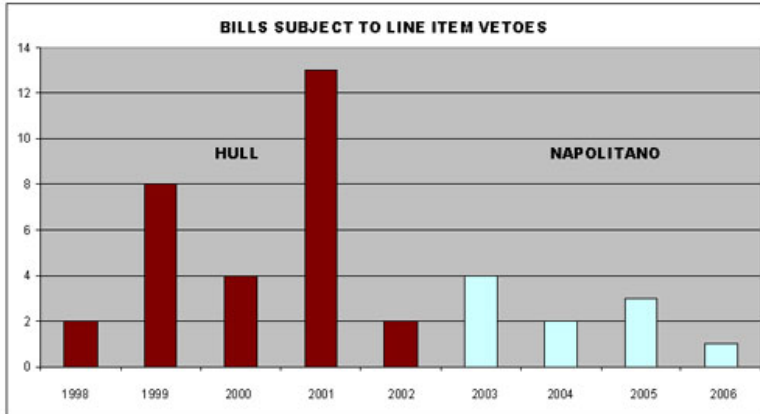
Governor Napolitano's vetoes—The current governor, Janet Napolitano, is in a situation similar to Babbitt's: she is a Democratic governor with a conservative, Republican-controlled legislature. Perhaps it is not surprising that in the 2005 legislative session, Governor Napolitano vetoed an all-time record number of bills (57). And with the veto of 45 bills last session she now holds the record for the most vetoes by any Arizona governor. (And the Governor still has four more years in office.) Many of the governor's vetoes were targeted at controversial legislation (e.g., on abortion, charter schools, and immigration) that were passed

by the legislature during an election year.³ Governor Napolitano's line-item vetoes have also been controversial. For example, in 2003 the governor struck lines in a spending bill that required reductions in the appropriations to specified agencies and programs. By striking just the reduction language the governor effectively *increased* the spending to these agencies be-



beyond the sum that the legislature intended. This, of course, is the very opposite of the intended purpose of the line item veto. (The Governor wanted more money for education and various social programs.) Republican legislative leaders were so incensed that they sued the governor, claiming that her use of the

line-item veto was unconstitutional. The Arizona Supreme Court wound up sustaining the governor's line-item vetoes on the technical ground that the lawsuit hadn't been properly authorized by the entire legislature. In 2006, however, the legislature won a legal battle against a line-item veto that struck a portion of a bill that did not specifically deal with appropriations. The Court concluded that this exercise of the line-item veto power went too far. And in 2006 the Legislature also mustered enough votes to override one of the Governor's vetoes.⁴



These lawsuits indicate that the veto power can lead to icy relations between the governor and the legislature. However, everything is not always what it seems: When the governor and legislature are of different parties, politics plays an undeniable role. Sometimes the

legislature, to appease constituents or embarrass the governor in an election year, will deliberately pass extreme legislation that it knows the governor will veto. On the other hand, legislators are often justifiably frustrated when delicate legislative compromises are nullified by a single person who didn't sit through all the committee hearings and debates.

1. The governor has 5 days to veto a bill when the Legislature is in session; 10 days if the Legislature is no longer in session. Ariz. Const., Art. 5, sec. 7.
2. Ordinarily, it takes a 2/3 vote of each chamber to override a veto. However, if the bill originally had to pass by a 2/3 margin (e.g., tax or emergency measures), it requires a 3/4 vote to override the veto.
3. A list of the vetoed bills is available on the Arizona Legislature's web site at: <http://www.azleg.state.az.us/Governor-Letters.asp>. (Choose the desired session).
4. In 2006 Governor Napolitano vetoed House Bill 1425 which would have prohibited any restrictions on firearms during a state of emergency. The legislature overrode this veto.



Governor Janet Napolitano (D)
2003-present

Governor Napolitano currently holds the record for the most vetoes by any Arizona governor.

The Removal of Evan Mecham



Governor Evan Mecham (R)
1987-1988



Governor Rose Mofford (D)
1988-1991



Governor Fife Symington (R)
1992-1997

Impeachment is the only way to remove a federal official from office. But thanks to the Progressives, Arizona has an additional method: recall. Impeachment is done by the legislature; recall is a people's process. These are intended to be alternative procedures. However, Governor Mecham's unpopularity in 1988 triggered a series of constitutional crises as various groups tried to simultaneously kick him out of office. Here's the story:

The election of Evan Mecham—Evan Mecham won a three-way race for governor in 1986 with only 40% of the total vote. Under the best of circumstances it is difficult to govern when a majority does not support you. However, Mecham alienated many Arizonans with one of his first official acts: the repeal of the Martin Luther King Jr. Day paid holiday. Mecham argued that the holiday had been illegally created by his predecessor. But some viewed Mecham's act as racist. In the ensuing weeks Mecham managed to offend various groups with insensitive remarks. (E.g., He used the slur "pickaninny" to describe black children; he blamed divorce on working women; termed America a "Christian nation" during a meeting with Jews; and made other insensitive remarks about African-Americans, Asians, and homosexuals). These and other statements made Arizona and its governor the subject of national ridicule. Eventually, the governor was even lampooned in *Doonsebury* comic strips. Mecham also nominated persons with dubious qualifications for high-level positions (one nominee was under investigation for murder). He failed to report a large campaign contribution as required by state law. He took public money and lent it to his Pontiac dealership. And he tried to block a criminal investigation of a death threat made by one of his staffers. All of these things led to calls for his removal.

The recall begins—Ed Buck, a Republican businessman and gay activist, started a recall drive against Mecham on the first day that one could legally begin. (Except for legislators, the Arizona Constitution bars recalls for the first six months in office.) Initially, the experts did not take Buck's recall seriously. They assumed it would be virtually impossible to collect over 200,000 signatures—the amount needed to trigger the recall election. (The Constitution requires 25% of the total gubernatorial vote). But within four months recall supporters collected over 380,000 signatures! The Secretary of State scheduled a recall election for May 1988. Several prominent candidates announced they would run against Mecham.

More trouble for Mecham—At the same time, the Attorney General began investigating Mecham for violation of the state's campaign contribution laws. A grand jury indicted Mecham on multiple felony counts. And the Republican-controlled legislature began its own investigation of the governor. In February 1988, the Arizona House of Representatives voted to impeach Mecham on three separate charges: the unreported campaign contributions, the loan of public money to his auto dealership, and the obstruction of the death threat investigation. The impeachment vote forced Mecham to temporarily surrender the office to the secretary of state. (The Arizona Constitution differs from the U.S. Constitution in this respect.) The Arizona Senate then began a formal impeachment trial in late February that lasted nearly six weeks. In the end the Senate voted to convict Mecham on two of the charges. (It did not vote on the campaign finance charge since that was the subject of the criminal prosecution.)

Constitutional crisis #1: Is Mecham Draculized?—The Arizona Constitution specifies the penalty for being convicted of impeachment charges. Article 8, part 2, section 2 reads in pertinent part:

... but judgment in such cases shall extend only to removal from office and *disqualification to hold any office of honor, trust, or profit in the state.* (Emphasis added)

The italicized language is known as the “Dracula Clause” because it drives a metaphorical stake through the politician’s heart by preventing him/her from ever holding office again. During the impeachment trial, the Arizona Senate debated whether this punishment automatically resulted from a vote of conviction, or whether it was an optional, additional punishment that the Senate could impose by a second vote. Ultimately, the Senate chose to take two separate votes on Mecham’s fate. More than two-thirds voted to convict him of the two impeachment charges but the vote fell short on the Dracula penalty. (Republicans did want him Draculized but a few prominent Democrats balked—presumably to give their opponents future headaches.) Since Mecham was not Draculized he ran for governor in the very next election (1990). Some voters went to court to block his candidacy. They argued that the Senate had misinterpreted the Constitution, and that Mecham was automatically Draculized. However, the Arizona Supreme Court allowed the Senate’s interpretation to stand. Although Mecham was thus allowed to run, he did not win the Republican primary.

Constitutional crisis #2: Remember the recall election?—The moment the Senate convicted Mecham of the two impeachment charges he was no longer governor. Secretary of State Rose Mofford, the acting governor, now took the oath of office and officially became governor. She appointed a new secretary of state to take over her old job. However, the recall election had already been scheduled and several candidates were actively campaigning, including Evan Mecham! The Attorney General issued a formal legal opinion concluding that the recall election could not be cancelled. (This was based upon the language in Article 2, pt. 1, sec. 2 that states that the election “shall” go forward if the petition signature requirement is met.) In addition to the candidates (who had already expended large sums of money in the campaign) many Republicans also wanted the election to go forward because they didn’t like the idea that a Democrat (Mofford) was taking over the state’s top office. Once again the dispute went to court. The Arizona Supreme Court acknowledged that the situation was messy. Never in American history had an elected official been simultaneously subjected to impeachment, recall, and criminal proceedings. However, the Court concluded that since Mecham had already been officially removed there was nobody to recall. The election was therefore cancelled.

Acquitted!—After Mecham was removed from office he was prosecuted on six felony charges stemming from the unreported campaign contributions. He was acquitted by the jury. (If Mecham *had* been convicted while still holding office, the conviction would have ousted him too—as it did Symington a few years later.) In other words, Arizona has no shortage of methods for removing public officials from office.

Epilogue: Arizonans tinker with the Constitution—The Mecham debacle caused Arizonans to amend the state constitution in 1988. No longer would the winner be the candidate who received the most votes (plurality). Now, the winner would have to receive a *majority* of the vote in order to win office. (A runoff election between the top two would establish the winner in case of a tie.) This change was supposed to prevent an unpopular candidate from gaining office as Mecham did in 1986. The plan backfired. In the very next election (1990) only two major candidates were running: Symington (R) and Goddard (D). However, the race between Symington and Goddard was extremely close. A Mecham supporter ran as a write-in candidate and managed to deprive Symington of just enough votes to achieve an absolute majority. This meant that the state had to go through a second election with the same two candidates! Millions of dollars were wasted on the second election. The campaign went on and on, and there was a delay in the transition to office. Many feared that if the outcome were reversed in the second election the winner would lack legitimacy. In the end Symington again won and assumed the office. But Arizonans learned a bitter lesson about experimenting with election rules. In 1992 they changed the constitution and reverted to the old system: whoever gets the most votes wins!

RECALL VERSUS IMPEACHMENT

Recall (Progressive process)

Who does it?	The voters
How does it work?	1. Petitions signed by 25% 2. Recall election
Who gets the office?	Winner of the recall election

Impeachment (Traditional process)

Who does it?	The Legislature
How does it work?	1. House votes to impeach (simple majority) 2. Senate votes to convict (2/3)
Who gets the office?	If the governor is recalled: the constitutional successor (usually sec’y of state) becomes governor. Other offices: the governor typically appoints a replacement.

UNUSUAL GUBERNATORIAL ELECTIONS

1986 Election (Plurality rule)

*Mecham (R) = 40%
Warner (D) = 36%
Shultz (I) = 24%

1990 Election (Majority rule)

Symington (R) = 49.6%
Goddard (D) = 49.2%
Write-ins (6) = under 2%

1990 Runoff Election

*Symington (R) = 52%
Goddard (D) = 48%

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