**PROPSFINAL.mp3**

**Nick Capodice:** [00:00:01] If you're from the great state of Idaho you might have heard this.

[00:00:04] It's not just saving our tradition of horse racing. Proposition 1 is about Idaho job creation classroom funding real accountability and the Idaho sponsoring Prop 1 are donating 100 percent of net profits from their horseracing operations to a new charitable foundation.

[00:00:21] I work with an old horse all my life. Supporters of Prop 1 are running deceptive ads. Prop Wong is an unlimited expansion of gambling statewide. I know the people behind Prop 1 and it made a lot of promises to schools and the racing community. But they take 18 times more money. Than schools get.

**Nick Capodice:** [00:00:39] Hey Hannah

**Hannah McCarthy:** [00:00:42] Yes.

**Nick Capodice:** [00:00:43] Pop quiz hotshot.

**Hannah McCarthy:** [00:00:44] Okay.

**Nick Capodice:** [00:00:45] Yes or no on Prop 1.

**Hannah McCarthy:** [00:00:50] I don't know what Prop 1 is and I need more information if I'm gonna say.

**Nick Capodice:** [00:00:55] Who benefits, who benefits from Prop 1.

**Hannah McCarthy:** [00:00:58] Schools, right?

**Nick Capodice:** [00:01:04] 4h? I cannot explain to you what Prop 1 is. I'm Nick Capodice.

**Hannah McCarthy:** [00:01:10] And I'm Hannah McCarthy.

**Nick Capodice:** [00:01:11] This is Civics 101 the podcast refresher course on the basics of how our whole democracy works. So today we're going to be talking about propositions. Ballot measures. These are initiatives referendums and recall.

**Hannah McCarthy:** [00:01:25] So when you say propositions what are you talking about.

**Nick Capodice:** [00:01:30] Propositions is an umbrella term under which initiative referendum and recall fall. To be clear today we're not talking about legislatively referred constitutional amendments which all the states except for Delaware have.

**Hannah McCarthy:** [00:01:46] Hold up, what is up with Delaware.

**Nick Capodice:** [00:01:47] I don't know actually we're going have to put that in our state anomaly episode along with Nebraska's single house legislature.

**Hannah McCarthy:** [00:01:53] And our 400 seat House of Representatives.

**Nick Capodice:** [00:01:55] Yeah.

**Hannah McCarthy:** [00:01:56] Did I sound a little drunk when I said that/

**Nick Capodice:** [00:01:57] No it sounded perfect. First off ballot initiatives they only happen in 24 states. And when I told our midterm guru Dan Cassino from Fairleigh Dickinson University that I thought it was funny that New Hampshire didn't have initiatives. He said that.

**Dan Cassino:** [00:02:11] No it's about when your state constitution is written. With your state constitution written between about 1880 and 1915 you're going to have initiative referendum recall all that, if it wasn't written or wasn't revised during that period you're not going to have it.

**Nick Capodice:** [00:02:25] This was during the height of the Progressive Era when progressives were arguing that corporations monopolies and trusts were corrupting state legislatures and there was no way for the citizens voice to be heard. Ballot initiative gives them that voice. So many of you out there you're not going to see props on your ballot on Election Day. So for you this episode is going to make you wish you had them, or grateful that you don't. If you are from one of those 24 states. Chances are they are a massive part of your political landscape. But first we need to dissect what an initiative and a referendum are. Here's former California assembly member and teacher Cheryl Cook Kallio.

**Cheryl Cook-Kallio:** [00:03:06] The initiative and referendum process puts the ability for citizens to either initiate the word initiate a statute that can be passed that either becomes a bill or it might become an amendment to a state constitution which gives grassroots organizers a real advantage. So an initiative is new legislation initiated by the people.

**Nick Capodice:** [00:03:31] Yes and referendum is.

**Cheryl Cook-Kallio:** [00:03:33] Something that the legislature submits to the people in order for them to validate a law that they would like to pass. Oftentimes it is something that's controversial or it may be like a state constitution or a referendum could be a grassroots movement by citizens of a particular state or county or city to recall or to redo a bill that they don't want that was passed by their lawmaking body.

**Hannah McCarthy:** [00:04:04] So a referendum is either reworking or removing a bill that's already been passed by Congress.

**Cheryl Cook-Kallio:** [00:04:12] So this gave a lot of power to individual citizens as opposed to leaving it up to your representatives.

**Nick Capodice:** [00:04:19] And legislative referendum is when elected officials put the question to the people. What do you think. Should we pass this bill.

**Hannah McCarthy:** [00:04:27] Why on earth would Congress want the people's opinion instead of just working it out themselves.

**Nick Capodice:** [00:04:33] Well as we've learned in many episodes it's really hard to get bills through both houses of Congress. So if you're a legislator and there's a bill that you think doesn't have a chance of getting out of committee or going through a debate on the floor of the House or the Senate you can just throw it to the people for a vote and it becomes law.

**Tim Eyman:** [00:04:52] So yeah this is Tim Eyman, I'm part of a team that has done initiatives in Washington state in the last 20 years. And during that time we've managed the get 16 ballot measures on the ballot. During that period of time and voters have approved 10 of those and rejected 6. So we're batting over 500.

**Nick Capodice:** [00:05:12] Tim is a conservative and part of what appeals to him about this process is that it gives him a voice in a state that tends to lean pretty blue.

**Tim Eyman:** [00:05:21] Well the initiative process is allowing people died. And I think that that is very attractive to me. Frankly I just don't trust politicians to do the right thing. But the initiatives we focus on are really focused on limiting government power and taxes.

**Hannah McCarthy:** [00:05:40] OK that's initiative and referendum but what is recall.

**Nick Capodice:** [00:05:45] Ooh, recall is super interesting and super duper rare but I wanted to include it today. Here's another initiative expert Guy Marzorati; political correspondent from our friends at KQED in San Francisco.

**Guy Marzorati:** [00:05:56] Recalls are of actual politicians and elected officials. We had one a little more than a decade ago in the governor's office where the sitting governor was recalled by voters and so that again was a required signature drive. That was then placed on the ballot and the governor was recalled and a new governor was chosen in the same election.

**Hannah McCarthy:** [00:06:17] That the people just removed a governor.

**Nick Capodice:** [00:06:20] They did. Gray Davis was removed from office in 2003 mostly due to tax and budget issues. But this was the election when Arnold Schwarzenegger was sworn in as governor.

[00:06:29] But for the people to win politics as usual must lose.

**Hannah McCarthy:** [00:06:35] No impeachment process no trial in the Senate. Just the voice of the people.

**Nick Capodice:** [00:06:41] Yes though I should add only 19 US states have recall and there's only been three in U.S. history, two of which were successful.

**Hannah McCarthy:** [00:06:49] OK so that's recall. How about initiatives and referendums how did they start. Who can put one on the ballot.

**Guy Marzorati:** [00:06:55] It can be anyone. And you know you there's a process by which you submit the language to the state. And then after that language is reviewed you are allowed to start gathering signatures.

**Nick Capodice:** [00:07:07] Here's Tim Eyman again. This is the guy who's gotten 20 initiatives on the ballot in Washington state.

**Tim Eyman:** [00:07:12] Well it's it's really tough. You've got to somehow convince well over 300000 fellow citizens to sign a piece of paper to put that on the ballot and you have to do that in about three or four months. So it's an incredibly difficult process to be able to you know essentially start the entire campaign and get it up and running in such a short period of time.

**Nick Capodice:** [00:07:38] Just a quick check in Hannahm How are you feeling about initiatives so far?

**Hannah McCarthy:** [00:07:43] In the sense that we are a democracy for the people by the people, it sounds really great right?

**Nick Capodice:** [00:07:52] Well let's start by looking at those signatures.

[00:07:58] My name is Kathy from petition's unlimited. And we here today in this very very rough economy. And I got the job for you.

**Guy Marzorati:** [00:08:07] In California we often can see outside of supermarkets and you know places where a lot of people gather you'll see folks with clipboards with different initiatives that they are gathering signatures for.

[00:08:19] Make your own hours. This is great for a musician for an actor somebody just wants to make money on the side.

**Guy Marzorati:** [00:08:26] Many of those people who do that are paid to do it and it can be a lucrative business if say an initiative is running against the clock to qualify for a ballot. Maybe its proponents will pay a hefty fee for each signature that's gathered in order to make sure that the initiative proposal does get on the ballot.

**Hannah McCarthy:** [00:08:46] Hold on. It's not just passionate advocates getting signatures.

**Nick Capodice:** [00:08:50] Oh no. This is business big business.

[00:08:55] Enough valid signatures from registered voters and the measures make it into the November ballot.

[00:09:00] If you have the 13 or 12 petitions even one person to sign them all it's worth about forty dollars. So it's worth a lot of money.

[00:09:08] Some campaigns are paying as much as five dollars this year for a single signature.

**Hannah McCarthy:** [00:09:14] It's the person collecting signatures who gets the five dollars per signature.

**Nick Capodice:** [00:09:19] Yes. So they can make upwards of five hundred dollars a day.

**Cheryl Cook-Kallio:** [00:09:22] So there's no incentive for that person with a clipboard to tell you the truth about what you're signing. So if you're not doing your due diligence if you're not reading the initiative you know yourself and they have a whole bag of tricks they can walk up and they say you like puppies don't you. And you know this protects the puppies and oh yes I'm going to sign this because it protects the puppies only to find out that it kills kittens.

**Guy Marzorati:** [00:09:47] Their job is really just to get the signatures and get paid for it.

**Nick Capodice:** [00:09:51] As of October 17th 2018 Ballotpedia has tracked about one point four billion with a B dollars spent on contributions and expenditures towards ballot measures for these upcoming midterms.

**Hannah McCarthy:** [00:10:04] This is starting to dampen my enthusiasm for a citizen led democracy.

**Nick Capodice:** [00:10:12] Well let me just throw another wet log on the fire Hannah. Sometimes parties and corporations throw tons of money behind initiatives for other reasons.

**Guy Marzorati:** [00:10:25] Ballot initiatives sometimes are often just used to get people out to the polls. I mean we saw the example that this year in California with the gas tax repeal. This was a measure placed on the ballot with heavy funding from the state Republican Party. They spent a lot to get the signatures and get it qualified for the ballot but then stop spending as much. Once the measure actually qualified. And the reason was they really wanted this gas tax repeal on the ballot to get Republicans to the polls. They thought it would be a big driver of turnout that would help them in the governor's race. And even more importantly help them in really close congressional races. But as an actual measure they didn't really fund it once it was on the ballot to the same extent which made it seem like maybe it was more important to get it on there than to actually get it passed.

**Nick Capodice:** [00:11:11] So imagine for a second that we as a nation had initiative and referendum. And that the decision to overturn Roe v. Wade was up to the people to decide. Can you imagine the voter turnout for that election.

**Hannah McCarthy:** [00:11:27] I think it would be huge. Right. I mean that's one of the most divisive issues in the country if that were up to us for a vote. I think most able voters would turn out. But. How would you even write that on a ballot.

**Nick Capodice:** [00:11:44] I am very glad you asked because this brings me to another point since you're voting for ideas as opposed to just candidates, names on the ballot, there is a lot of attention on how these are phrased. Back in 2008 Cheryl Cook-Kallio she was teaching a high school class she called the most inclusive class she had seen.

**Cheryl Cook-Kallio:** [00:12:04] They had a gay straight alliance before other schools had them. The kids were very open about who they were.

**Nick Capodice:** [00:12:09] And this was when California was voting on Prop 8 which was about same sex marriage.

**Cheryl Cook-Kallio:** [00:12:13] We have an I Vote thing in California where students mimic the national election and they all voted against gay marriage. And my mouth flew open as did my entire We The People class and I immediately went to the ballot and looked at how it was worded and I said well they were all vote thought they were voting in favor of gay marriage. So how something is worded is extremely important. And there are lawyers spend their entire career figuring out how to word something so that it seems like one thing is as opposed to another.

**Guy Marzorati:** [00:12:47] The wording is such a politicized aspect of this whole ballot initiative conversation. So the wording is decided by the attorney general's office. And this you know can work very drastically for and against supporters of a ballot measure. Take this year with the gas tax repeal. Democrats control all statewide office in California which includes the attorney general's office. So what voters will see on their ballot does not say do you want to vote yes on a gas tax repeal. Instead the measure and the language at sea seems really tilted towards do you want to get rid of funding that has been dedicated to fix our roads to fund transportation which is what this increased gas tax went towards. So polling interestingly that has just asked people about their thoughts on the ballot measure by reading them the ballot language. You know the repeal is done a lot worse than if you ask people whether they support a repeal of the gas tax.

**Hannah McCarthy:** [00:13:51] Well what language actually made it onto the ballot.

**Nick Capodice:** [00:13:54] All right here's the first part for the Prop 6 summary: repeals a 2017 transportation law's tax and fee provisions that pay for repairs and improvements to local roads state highways and public transportation. Ballotpedia has this automatic formula that analyzes the readability of all of these measures. And it's called the Flesh Kinkaid grade level which is how many years of formal education you'd have to have in order to fully understand with confidence a ballot measure. So this one we just read that scores of 16.

**Hannah McCarthy:** [00:14:25] What does 16 mean.

**Nick Capodice:** [00:14:27] That means you need 16 years of formal education to comprehend. You need a college degree. And the one we played some ads for in the beginning are old horsea friend Prop 1 in Idaho.

[00:14:37] I work with horses all my life.

**Nick Capodice:** [00:14:40] 53 years of formal education to understand.

**Hannah McCarthy:** [00:14:44] Who besides a monk has 53 years of formal education.

**Nick Capodice:** [00:14:50] It's just it's just a formula that analyzes language. But let me but tell me how you'd vote on this. Ready?

[00:14:56] Yeah.

**Nick Capodice:** [00:14:56] An initiative amending Chapter 25 title 54 Idaho code contains findings and purposes MEND's definition of historical horse race adds new section authorizing historical horse race betting in certain locations where live or simulcast parimutuel horse race betting occurs specifies requirements for historical horse racing terminals declares such terminals not to be slot machines allocates revenue from historical horse race betting requires licensees to enter into agreements Horseman's groups prehistorical horse race purse money fund and State Treasury authorizes distribution by state races commission and between state treasurer refund monies direct state racing commission to promulgate implement rules declares and act effective upon voter approval and completion of voting canvass and provides for severability.

**Hannah McCarthy:** [00:15:31] Get out. Leave.

**Nick Capodice:** [00:15:34] My favorite words in this are parimutuel.

**Nick Capodice:** [00:15:36] So a lot of words, spellcheck was like don't you mean something else like three words in this the my spellcheck didn't catch

**Hannah McCarthy:** [00:15:43] What's the single thing I'm voting on like what's the big idea here. Because these are a million little things that don't mean a hell of a lot to me. I know nothing about horseracing.

**Nick Capodice:** [00:15:52] Yeah this is the sort of stuff that requires you to do the legwork you have to research each initiative before you vote. From what I can gather Prop 1 is about legalizing the use of video terminals for horse race betting.

**Hannah McCarthy:** [00:16:04] I would not have gotten that.

**Nick Capodice:** [00:16:06] And there's 11 of these in California alone. So if there's a call to action today it's to go to a Web site like ballotpedia.org, Put in your address and get a sample ballot before Election Day.

**Hannah McCarthy:** [00:16:19] Or let's say you're in the polling booth. Get out your phone. Look this stuff up if you need to.

**Nick Capodice:** [00:16:24] So let's hear Guy's final thoughts on the pros and cons of direct democracy.

**Guy Marzorati:** [00:16:31] Supporters of ballot initiatives say this is the best way to give citizens power to react to things that the legislature isn't dealing with. Examples of that in the past have been about property taxes. This year rent control issues that the legislature hasn't taken up for years. People are fed up and they feel like OK you didn't act on this. Now it's time for us to act on it. On the flip side when we talk about citizens initiative these often aren't brought to the ballot by you know some good citizen who suddenly thinks of it an idea that should be a law it's oftentimes interest groups unions corporations that feel like. You know they want to change a law. They couldn't do it through the legislature. They don't want to negotiate about it. They want to just port forward kind of a yes or no idea and they're willing to spend heavily to make it happen.

**Guy Marzorati:** [00:17:19] That's you know how does the process I guess has taken on more of a cynical aspect.

**Nick Capodice:** [00:17:25] And if it seems that people are a bit cynical of initiatives I want to close by saying that yes, corporations and political parties have massive influence on what initiatives make it to the ballot. That said, these are also the issues that elected officials have been avoiding, that they wouldn't touch with a ten foot pole. Issues like marijuana legalization. Abortion. Same sex marriage. The death penalty.

**Hannah McCarthy:** [00:17:54] So knowing that the language might be designed to purposefully obfuscate the meaning. I feel empowered to do research and also to take with a grain of salt what I'm reading in that voting booth it's a little bit like those crosswords you do Nick where the clue contains the answer but it's not immediately apparent you have to think outside the box to get to it.

**Nick Capodice:** [00:18:21] The cryptic crossword.

**Hannah McCarthy:** [00:18:22] Yeah.

**Nick Capodice:** [00:18:23] And I think it's really exciting they just Prota a lot of there's a lot of trust in the voter in these issues. If the voters all do their work. Then these can be a really cool thing. If they don't they're at the whims of people who have lots of money.

**Hannah McCarthy:** [00:18:38] Right.

**Nick Capodice:** [00:18:39] So you gonna move to California.

**Hannah McCarthy:** [00:18:42] No, I like the rain.

**Nick Capodice:** [00:18:44] Before we go we have our final snapshot of a famous midterm from U.S. history delivered by former NHPR reporter current afternoon host at Wisconsin Public Radio. Author of dead presidents, Mr. Perfect, Brady Carlson. What mid term are we talking about today Brady?

**Brady Carlson:** [00:19:01] We're talking about the midterm of 2002 and the lesson from this midterm is that the rules of American politics only apply until they don't.

**Brady Carlson:** [00:19:16] We know that what typically happens in midterms is that the president's party loses seats in Congress in the midterm after the president is first elected. They don't always vote for the opposition party to have control of Congress. But at the very least the president's party ends up with fewer seats in Congress after that midterm. That said the political picture in 2002 was complicated. We were only a couple of years removed from the presidential election of 2000. That's the one where Republican George W. Bush won the Electoral College but lost the popular vote and there was the highly controversial Supreme Court decision about recounts in the state of Florida.

[00:19:57] Neither the sanctity of the ballots nor the integrity of the election. Has been compromised. And that the election results....

**Brady Carlson:** [00:20:08] Republicans had a majority in the House of Representatives. It was a straightforward majority. The Senate was anything but straightforward 2000 elections have left the chamber with 50 Republican senators and 50 Democratic and Democratic aligned senators. So the vice president was on the hook to potentially break all these ties.

**Brady Carlson:** [00:20:26] And then after five months of that split Republican senator switched parties and the Democrats had a very narrow majority.

**Senator Jim Jeffords:** [00:20:33] I have found myself in crushingly odds with the Republican philosophy and more in line with the philosophy of the Democratic Party.

**Brady Carlson:** [00:20:43] So leading up to this midterm we had one chamber of Congress with a Republican majority one with a Democratic majority a president who had only narrowly won an election. So this is about as divided as divided government gets which in and of itself is very complicated.

**Brady Carlson:** [00:20:59] But of course the most complicated piece of the midterm in 2002 was that it came about a year after the attacks of September 11 2001.

**Geoge W Bush:** [00:21:09] I became something that no president should ever want to be a wartime president.

**Brady Carlson:** [00:21:16] There were other issues at the time. There had been a big tax cut bill in Congress. There was the No Child Left Behind education law.

**Brady Carlson:** [00:21:22] The U.S. economy had kind of become sluggish but the single big issue in this midterm was security. The U.S. was already launching a military effort in Afghanistan. President Bush had called for Congress to authorize a new military campaign in Iraq. And I had forgotten until I looked it up just how close to the election the Iraq war vote took place it was in October 2002 so it was under a month before Election Day. Republicans in Congress by and large backed the president, said you need to go into Iraq. The Democrats who had mostly opposed the president on the economy and other domestic issues ended up split on the Iraq vote. A lot of rank and file Democrats opposed the war vote but their leaders in the House and Senate as well as some very high profile senators like Hillary Clinton and John Kerry voted in favor of the resolution.

**Senator Hillary Clinton:** [00:22:13] Any vote that might lead to war should be hard but I cast it with conviction.

**Brady Carlson:** [00:22:21] Now obviously that became a very consequential vote for a lot of reasons a lot of people changed their minds about that vote in the years to come. But if you look at it purely through the lens of a midterm election campaign you have a lot of high profile Democrats who are basically siding with the Republican administration on the top issue of the campaign. And all of that ends up leading to a midterm outcome which is far from the usual. There's an important caveat about that rule that the president's party loses seats in the president's first midterm. And that is that you can usually track how big those losses are going to be for the president's party based on the president's approval rating at the time. So take GeorgeW. Bush's predecessor Bill Clinton in his first midterm election. His approval rating was like 43 percent. And so Democrats lost pretty big. They lost control of Congress. In 2002. George W. Bush's approval rating was 63 percent.

**Geoge W Bush:** [00:23:23] We choose freedom and the dignity of every life.

**Brady Carlson:** [00:23:34] It wasn't that long before it was even higher in the immediate aftermath of the September 11th attacks. So you have a president with relatively high approval ratings long term changes in the country's political alignment and an election where security and terrorism are top issues in a way that they usually aren't. And it wasn't that all of that ended up turning into a landslide for Republicans in 2002. It was still pretty divided. If you look at the raw vote totals but the races that might have swung one way or another determine the outcome wound up swinging in the administration's favor. So in the end Republicans gained five seats in the house the game two in the Senate. So they wound up having majorities in both chambers of Congress.

**Brady Carlson:** [00:24:15] Again this is the first time that the president's party had gained seats in the president's first midterm election since the 1930s.

[00:24:28] He told me to come down here and tell you something. Tell me to come down here and tell you that two years from now he wants all y'all on his team.

**Brady Carlson:** [00:24:47] The lesson here is that there are no guarantees in U.S. elections. There are trends and some of them happen so often that they might almost feel like political laws. But to assume that voters will go a certain way in an election just because voters have usually gone that certain way in the past is to forget the wisdom of one of our great philosophers baseball star Yogi Berra who said it ain't over till it's over.

**Nick Capodice:** [00:25:18] That'll do for this our penultimate episode on the midterms. Stay tuned for the next and final one. Today's Episode is produced by me Nick Capodice and Hannah McCarthy.

**Hannah McCarthy:** [00:25:29] Our staff includes Jacqui Helbert and Ben Henry our executive producer is Erika Janik. Maureen McMurry believes in parimutuel promulgation.

**Nick Capodice:** [00:25:37] Music from today's episode is from Geographer, Scott Graton, Chris Zabriskie, Poddington Bear and Blue Dot Sessions.

**Hannah McCarthy:** [00:25:45] Civics 101 is a production of an NHPR, New Hampshire Public Radio.