

HB

299

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729*



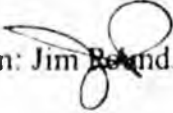
Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: House State Affairs Committee

From:  Jim Beaud, Professional Staff

Cc: Rep. Wes Keller

Date: February 7, 2008

Re: Response to questions posed on HB 299

I would like to thank the Committee for hearing HB 299 and for the time involved in your review prior to the meeting to ask very informed questions. I should point out that the intent of the bill is to show the voting public, in light of the events of this past year, true accountability to the constituents.

As to the questions regarding PACs and their ability to create groups that could spend large amounts of money to oppose or support a candidate:

HB 299 does not address this issue as it is already allowable under current statute and the bill was not specifically written to make changes to that part of the law. We had considered this during the drafting process and determined attempts to limit PACs in this manner could be challenged in court under the First Amendment Right of Free Speech.

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Thank you

By far the biggest concern we faced while working on this piece of legislation was the one referenced most often by the committee, the First Amendment. Based on research the language in HB 299 should pass constitutional muster.

I have spent some time reviewing several cases and find the most compelling defense is from a Supreme Court of the United States case *Buckley v. Valeo* 424 U.S. 1, 96 S.Ct. 612 (1976). While it is a 1976 case, the Supreme Court strongly upholds the *Stare decisis* in Buckley so I have based the review on how the court may interrupt this particular language as to its constitutionally especially based on the past year in the Alaska Legislature.

I must state for the record that I am not an attorney. The bold print in this memo is emphasis added by me.

In Randall, *Randall v. Sorrell* 126 S.Ct. 2479 (2006), the court is emphatic that restrictions on the process do not violate the Constitution provided it can pass the **compelling state interest** test.

The *Buckley* Court recognized,

inter alia, that such limits, unlike expenditure limits, "involv[e] little direct restraint on" the contributor's speech, 424 U.S., at 21, 96 S.Ct. 612, and are permissible as long as the government demonstrates that they are "**closely drawn**" to match a "**sufficiently important interest**," *id.*, at 25, 96 S.Ct. 612. It found that the interest there advanced, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the contribution limits, *id.*, at 25-26, 96 S.Ct. 612, and that those limits were "closely drawn."

Further Justice Breyer concluded:

They do restrict "one aspect of the contributor's freedom of political association," namely, the contributor's ability to support a favored candidate, but they nonetheless "permi[t] the symbolic expression of support evidenced by a contribution," and they do "not in any way infringe the contributor's freedom to discuss candidates and issues." *Id.*, at 21, 24, 96 S.Ct. 612.

Consequently, the Court wrote,

contribution limitations are permissible as long as the Government demonstrates that the limits are "closely drawn" to match a "sufficiently important interest." *Id.*, at 25, 96 S.Ct. 612. It found that the interest advanced in the case, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the statute's contribution limits. *Id.*, at 25-26, 96 S.Ct. 612.

Even Alaska's Supreme Court has reviewed Campaign Finance Reform in *State v. A.C.L.U.* 978 P.2d 597 Alaska (1999) finding that the stricter limits met a "real harm test."

Real harm test for First Amendment analysis of campaign finance limitations does not require exhaustive proof of corruption, but merely empirical support or at least sound reasoning in favor of the measures defended.

I would suggest that based on the past year of activity by law enforcement at the federal level, that this legislation most certainly is "closely drawn" to the needs of the state and that corruption or the appearance of corruption will be greatly reduced by passage of this or similar language. The Courts, especially the federal courts would find it very difficult to rule that it violates or restricts the first or fourteenth amendments; again I reference our Supreme Court in *State* from a suit filed after the 19th Legislature passed SB 191:

The State asserts here, as it did below, that SB 191 was a response to the initiative and to public concerns about actual and apparent corruption in Alaska politics. The Act recited these legislative findings:

(3) organized special interests are responsible for raising a significant portion of all election campaign funds and may thereby gain an undue influence over election campaigns and elected officials, particularly incumbents ...

There is of course an opposing point of view as found in *VanNatta, VanNatta v. Keisling 151 F.3d 1215 C.A.9 (Or.), 1998* which more closely reviews a similar piece of legislation under a different set of circumstances. In *VanNatta* the Ninth Circuit invalidated the concept of out of district "donations" stating that "out-of-district contributions lead to the sort of corruption discussed...". Since preventing corruption and the appearance of corruption is the only justification which has been found to justify infringing on the First Amendment freedom...the court found that a complete ban on out-of-district contributions was not closely drawn to serve this goal.

Our State Supreme Court looks at it a little differently in *State*:

Statute prohibiting a registered lobbyist from contributing to legislative candidates in districts outside the district in which the lobbyist is eligible to vote was narrowly tailored to further State's compelling interest, thus satisfying the First Amendment; evidence supported State's assertion that lobbyists' contributions were especially susceptible to creating an appearance of corruption, the out-of-district ban drew a logical compromise between lobbyists' private rights and their professional obligations, and the restraint did not foreclose lobbyists from engaging in political speech.

While the particular issue here is lobbyist; corporations and groups often use lobbyist, professional or not to get their point of view in front of individual legislators

Once again I must stress a review of the events of the past year that a federal court would find it difficult not to find in favor of this legislation based on corruption.

The U.S. Courts have also been clear on the legislature's ability to legislate in this area. The Ninth referred to *Holt, Holt Civic Club v. City of Ypsilanti 439 U.S. 60, 99 S.Ct. 383 (1978)* which offers some interesting insight to the separation of power, especially between the legislative and judicial branches.

The *Holt* Court separates those powers:

- (a) A government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. Various voting qualification decisions on which appellants rely in support of their contention that the denial of the franchise to them can stand only if justified by a compelling state interest are inapposite.

It further acknowledges that it has not traditionally determined how a sovereign state determines its political process, and not the courts place to determine government units.

No decision of this Court has extended the "one man, one vote" principle to individuals residing beyond the geographic confines of the governmental entity concerned, be it the State or its political subdivisions. On the contrary, our cases have uniformly recognized that a government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. See, e. g., *Dunn v. Blumstein*, 405 U.S. 330, 343-344, 92 S.Ct. 995, 1003-1004, 31 L.Ed.2d 274 (1972); *Evans v. Cornman*, *supra*, 398 U.S. at 422, 90 S.Ct. at 1754; *Kramer v. Union Free School Dist.*, 395 U.S. at 625, 89 S.Ct. at 1888; *Carrington v. Rash*, 380 U.S. 89, 91, 85 S.Ct. 775, 777, 13 L.Ed.2d 675 (1965); *Pope v. Williams*, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904).

Conclusion

I hope this answers the questions of Constitutionality brought up by the Committee. If there are any other questions please feel free to contact me or Representative Keller. Again we would like to thank the committee members for their interest in the concept and their diligence during the hearing.

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600 East Railroad Avenue
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REPRESENTATIVE WES KELLER DISTRICT 14 Sponsor Statement HB 299

House Bill 299 is a constituent empowerment bill that returns the balance of power to the Alaskan voter. It accomplishes this by limiting the financial influence special interest groups will have over individual elections.

Recent corruption indictments have thrown a spotlight on influence brokers who illegally swayed decisions using bribes, conspiracy, and extortion. Testimony in the trials also reveals we need this legislation to slam the door on unhealthy, but currently legal, campaign persuasion.

Under existing law, special interest groups can accumulate a roster of deep-pocket contributors who can be rallied to send up to \$500 per candidate, per year to influence the campaigns of whatever individual the group identifies. The longer the roster and the deeper the pockets, can result in increased pressure on the candidate if he or she is successful. An examination of publicly available APOC information reveals that this is a common scenario in politics. Indeed, in Alaska, the median percentage of contributions coming from constituent voters was only .31 % in the last election.

HB299 changes this scenario by increasing the importance of individual contributions to a candidate. The primary source of campaign income will come from those individuals eligible to also vote for that candidate. Group involvement will be from the candidates own political party.

Political party contributions (currently limited at \$10,000 per House District) will continue to be a part of the process, and maintain the association between candidate and party. Political party platforms, structures, and administration are the product of grass-roots involvement and provide a means of screening and identifying the values of candidates.

HB299 does not eliminate Political Action Committees or organized groups as they are still permitted to work with political parties. They are also permitted to work with special interest individuals at the district level, provided those individuals are eligible to vote for the candidate they are financially supporting.

HB299 is a strong move to return Alaska to the one person, one vote form of politics. Constituents will know when they contribute to a campaign that their money will carry just as much weight as their neighbors, and at the same time be assured that the special interest influencing the candidate will be theirs.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 12, 2007

SUBJECT: Campaign contributions restriction (Work Order No. 25-LS1063\C)

TO: Representative Wes Keller
Attn: Jim Pound

FROM: Alpheus Bullard
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 15.13.050(b), governing the behavior, contributions, and expenditures of certain groups, to conform with section 2 of the bill.

Section 2. Changes AS 15.13.065(a) to allow only (1) individuals who are qualified to register to vote in the house district, senate district, judicial district, municipality, or other area in which a candidate is running for office or seeking retention, and (2) political parties, to make campaign contributions to a candidate.

Section 3. Amends AS 15.13.070(c), governing contribution amounts by groups that are not political parties, to conform with section 2 of the bill.

Section 4. Amends AS 15.13.070(f), governing contribution amounts by nongroup entities, to conform with section 2 of the bill.

Section 5. Amends AS 15.13.072(a), governing who a candidate may solicit or accept contributions from, to conform with section 2 of the bill.

Section 6. Amends AS 15.13.074(h), governing contributions from a group presumed to be controlled by a candidate for governor or lieutenant governor, to conform with section 2 of the bill.

Section 7. Amends AS 15.13.400(8), the definition of "group", to conform with section 2 of the bill.

Representative Wes Keller
December 12, 2007
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Section 8. Repeals AS 15.13.072(e), which allowed certain contributions from individuals who were not residents of the state, to conform with the changes made by section 2 of the bill.

Section 9. Provides the bill with an effective date of January 1, 2009.

TLAB:ljw
07-417.ljw

Enclosure

LEGISLATIVE RESEARCH REPORT

NOVEMBER 16, 2007



REPORT NUMBER 08.049

POLITICAL ACTION COMMITTEES IN ALASKA

PREPARED FOR REPRESENTATIVE WES KELLER

BY DANIEL LESH, LEGISLATIVE ANALYST

You asked about political action committees (PACs) in Alaska. Specifically, you requested a summary of the laws and regulations that govern the activities of PACs in Alaska state elections as well as any relevant research on the general subject.

Title 15, Chapter 13 of the Alaska Statutes, "State Election Campaigns," restricts the influence of PACs in Alaska state elections. Alaska law does not refer to PACs specifically, but they fall under the category of a "group."¹ The following are some of the key laws that apply to PACs in Alaska:

- AS 15.13.040: A group must report to APOC "the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor" for contributions in excess of \$100 in the aggregate per year. Details concerning contributions under \$100 must be recorded, but only the date and amount of the contribution must be reported to APOC.
- AS 15.13.070: A group may accept voluntary contributions from individuals of no more than \$500 per year and from other groups of no more than \$1,000 per year. A group may contribute no more than \$1,000 per year to a candidate, another group, or a political party.²
- AS 15.13.072: No more than 10% of all contributions accepted by a group may be from non-Alaskan residents. Candidates may not accept contributions from groups formed outside the state of Alaska.
- AS 15.13.074: A group may not receive contributions from a corporation, non-profit organization, union, or government agency.

¹ AS 15.13.400(8) defines a group as "any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election."

² For comparison with limits on PAC spending in other states, please see Attachment A, a table produced by the National Conference of State Legislatures.

PACs are typically, but not exclusively, formed from the employees of a corporation or labor organization. An Alaska Public Offices Commission (APOC) document, which we include as Attachment B, details how to set up and operate a PAC without accepting illegal contributions from its affiliated corporation. For instance, a corporation's PAC is allowed to accept administrative and bookkeeping assistance to run a voluntary payroll deduction plan (2 AAC 50.150), but a separate account must be set up and the corporation must not exert any control over the use of PAC funds.

Prior to legislation passed in 1996, corporations and unions could make direct contributions to state election campaigns. AS 15.13.070, which details all state campaign finance spending limits, was rewritten in 1996. The spending limits that are applicable to PACs were subsequently increased by Chapter 108 SLA 2003 but then reversed by primary ballot measure 1 in 2006.³

Two measures are pending that would impact the influence of PACs in Alaska. The House Finance committee is currently considering CS HB 6, which would reduce the maximum contribution from a PAC to a candidate or another group from \$1,000 to \$500. Also, signatures are currently being collected for a ballot initiative known as the "clean elections initiative," which would institute a system of publicly-financed state elections in Alaska and would diminish the influence of groups such as PACs.

The law and measures described above pertain to Alaska state elections. The influence of PACs in federal elections is regulated by the Federal Elections Commission (FEC). Federal PACs may accept contributions of up to \$5,000 per individual or PAC and give no more than \$5,000 per election to a candidate committee, \$15,000 per year to a national party committee, and \$5,000 per year to another PAC. The first PAC was formed to help re-elect President Franklin D. Roosevelt in 1944, following campaign finance limits put in place by the Smith Connally Act of 1943. Indeed, the history of campaign finance reform has repeatedly shown that new spending limits in one area often lead to spending in other areas. A recent nation-wide example is the proliferation of spending by groups known as 527s—such as the group "Swift Boat Veterans for Truth"—following the Bipartisan Campaign Reform Act (McCain-Feingold Act) of 2002.⁴ We include a report discussing all types of independent expenditures in state-level election campaigns in five states, including Alaska, as Attachment C. For policy analyses regarding the efficacy and legality of limiting independent campaign expenditures, please see Attachments D and E.

We will provide the APOC data that you requested in an Excel spreadsheet when they are available. Meanwhile, we provide Attachments F and G, which summarize these data.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

³ Chapter 108 SLA 2003 increased from \$1,000 the maximum amount PACs could donate to candidates, other groups, and political parties to \$2,000, \$2,000, and \$4,000, respectively. The legislation also increased the amount an individual could contribute to a PAC from \$500 to \$1,000. Primary ballot measure 1 in 2006 reversed all these increases, as well as an increase in the threshold (from \$100 to \$250) at which a group must disclose the source of a contribution.

⁴ According to the Center for Public Integrity, a non-profit organization producing non-partisan investigative research, the following two groups have registered as 527s in Alaska since 2000: Ocean Champions Voter Education Fund and Alaska to America Energy Initiative. Since 2000, these groups have spent \$48,551 and \$3,970, respectively.

Attachment A

National Conference of State Legislatures
"Limits on PAC Contributions to Candidates"

Available at <http://www.ncsl.org/programs/legismgt/about/PACCand.htm>



Limits on PAC Contributions to Candidates

Updated August 2, 2005

	PAC to Candidate Contributions
Alabama	Unlimited
Alaska	\$2,000/office/year Contributions from out-of-state PACs prohibited. (i)
Arizona (f)	Limits for the 2005-2006 election cycle: Super PACs: (b) \$3,784/statewide candidate \$1,512/legislative candidate Regular PACs: \$760/statewide candidate \$296/legislative candidate Aggregate contributions accepted by a candidate from PACs cannot exceed: \$75,624 - statewide candidate \$7,568 - legislative candidate If a candidate contributes personal funds to his/her own campaign in excess of the following amounts, then all other candidates for the same office may accept, and PAC's may make, contributions up to the amount of the other candidate's personal contribution: \$29,580/statewide candidate \$14,800/legislative candidate Amounts are per election (a)
Arkansas	Small Donor PACs: (c) \$1,000/candidate/election (a) Regular PACs \$1,000/candidate/election (a)
California (i)	Small Contributor Committees (i) \$22,300/gubernatorial candidate \$11,100/other statewide candidate \$6,700/legislative candidate Regular PACs \$22,300/gubernatorial candidate \$5,600/other statewide candidate \$3,700/legislative candidate All amounts are per election (a)
Colorado	"Small Donor" Committees: (c) \$5,000/gubernatorial candidate \$2,000/other statewide candidate \$2,000/legislative candidate Regular PACs \$500/gubernatorial candidate \$500/other statewide candidate \$200/legislative candidate

	All amounts are per election (a).
Connecticut	<p>\$2,500/gubernatorial candidate \$500/state senate candidate \$250/state house candidate Amounts are doubled for a PAC established by a business entity All amounts are per election (a).</p>
Delaware	<p>\$1,200/statewide candidate \$600/other candidate Both amounts are per election cycle.</p>
Florida	\$500/candidate/election (a)
Georgia	<p>Statewide candidate: \$5,000/primary or general election \$3,000/primary or general run-off</p> <p>Legislative candidates: \$2,000/primary or general election \$1,000/primary or general run-off</p> <p>All amounts are per election cycle.</p>
Hawaii	<p>\$6,000/statewide candidate \$4,000/state senate candidate \$2,000/state house candidate All amounts are per election cycle.</p>
Idaho	<p>\$5,000/statewide candidate \$1,000/legislative candidate Both amounts are per election (a).</p>
Illinois	Unlimited
Indiana	Unlimited
Iowa	Unlimited
Kansas	<p>\$2,000/statewide candidate \$1,000/state senate candidate \$500/state house candidate All amounts are per election cycle.</p>
Kentucky	<p>\$1,000/candidate/election (a) Except for gubernatorial states, no candidate can accept PAC contributions which in the aggregate exceed 50% of the candidate's total contributions or \$10,000/election, whichever is greater. Gubernatorial states that accept public financing may not accept more than 25% of their contributions from PACs. Other gubernatorial states may not accept more than 25% or \$150,000 (whichever is less) of contributions from PACs.</p>
Louisiana	<p>Regular PACs: \$5,000/statewide candidate/election (a) \$2,500/legislative candidate/election (a)</p> <p>"Big" PACs (d) \$10,000/statewide candidate/election (a) \$5,000/legislative candidate/election (a)</p> <p>Candidates subject to following aggregate limits on PAC contributions accepted per election cycle: \$80,000/statewide candidate \$60,000/legislative candidate</p>
Maine (f)	\$500/gubernatorial candidate

	<p>\$250/other candidate Both amounts are per election (a).</p>
Maryland	\$6,000/candidate/four-year election cycle
Massachusetts	<p>\$500/candidate Candidates cannot accept aggregate PAC contributions that exceed the following amounts: \$150,000/gubernatorial candidate \$18,750/senate candidate \$7,500/house candidate All amounts are per calendar year.</p>
Michigan	<p>Political Committees: \$3,400/statewide candidate \$1,000/senate candidate \$500/house candidate Independent Committees (g) \$34,000/statewide candidate \$10,000/senate candidate \$5,000/house candidate All amounts are per election cycle.</p>
Minnesota	<p>Election year limits: \$2,000/gubernatorial candidate \$500/legislative candidate Non-election year limits: \$500/gubernatorial candidate \$100/legislative candidate Aggregate contributions from PACs, lobbyists, and individuals who contribute or loan more than half the yearly limit cannot exceed 20% of spending limits 2005 aggregate limits \$87,524/gubernatorial candidate \$2,190/senate candidate \$1,140/house candidate 2006 Aggregate limits will be determined in March 2006</p>
Mississippi	unlimited
Missouri	<p>\$1,200/statewide candidate \$600/senate candidate \$300/house candidate All amounts are per election (a).</p>
Montana	<p>\$500/gubernatorial slate/election (a) \$250/other statewide candidate (a) \$100/legislative candidate/election (a) Candidates limited to total contributions from all PACs: \$2,150 - state senate candidates (a) \$1,300 - state house candidates (a)</p>
Nebraska	<p>Candidates limited to maximum amount in aggregate contributions that can be accepted in an election period from independent committees, corporations, labor unions, associations and political parties \$825,500 - gubernatorial candidates \$75,000 - other statewide candidates \$36,500 - legislative candidates</p>
Nevada	\$5,000/candidate/election (a)
New Hampshire	<p>To candidates not agreeing to abide by spending limits: \$1,000/election (a) Unlimited to candidates agreeing to abide by spending limits.</p>
New Jersey	\$8,200/candidate/election (a)
New Mexico	Unlimited
New York	<p>Gubernatorial candidates: Primary - product of number of enrolled voters in candidate's party in the state ÷ \$.005, but not less</p>

	<p>than \$5,400 or more than \$16,200 General - \$33,900</p> <p>Legislative candidates:</p> <p>Primary -</p> <p>\$5,400/senate candidate \$3,400/house candidate</p> <p>General -</p> <p>\$8,500/state senate candidate \$3,400/state house candidate</p> <p>All amounts are per calendar year.</p>
North Carolina	\$4,000/candidate/election (a)
North Dakota	Unlimited
Ohio	\$10,000/candidate/election (a)
Oklahoma	\$5,000/candidate/election campaign
Oregon	Unlimited
Pennsylvania	Unlimited
Rhode Island	<p>\$1,000/candidate/calendar year or \$2,000/candidate/calendar year if candidate qualifies for public funding and agrees to abide by spending limits</p> <p>Annual aggregate limit of \$25,000 to all recipients from a single PAC.</p>
South Carolina	<p>\$3,500/statewide candidate \$1,000/legislative candidate Both amounts are per election cycle (a)</p>
South Dakota	Unlimited
Tennessee	<p>\$7,500/statewide candidate \$7,500/state senate candidate \$5,000/state house candidate</p> <p>No more than 50% of a statewide candidate's total contributions may come from PACs</p> <p>Legislative candidates may not accept more than \$75,000 in the aggregate from PACs</p> <p>All amounts are per election (a)</p>
Texas	Unlimited
Utah	Unlimited
Vermont	<p>\$400/gubernatorial candidate \$300/state senate candidate \$200/state house candidate</p> <p>No more than 25% of funds may come from non-residents, out-of-state PACs, and political parties (held unconstitutional (h))</p> <p>All amounts are per 2-year election cycle</p>
Virginia	Unlimited
Washington	<p>\$1,350/gubernatorial candidate \$675/legislative candidate Both amounts are per election (a)</p>

West Virginia	\$1,000/candidate/election (a)
Wisconsin	<p>\$43,129/gubernatorial candidate \$1,000/state senate candidate \$500/state house candidate</p> <p>Aggregate limit on amount of candidates may accept from all committees, excluding party committees, in an election campaign: \$485,190/gubernatorial candidate \$15,525/senate candidate \$7,763/house candidate</p> <p>All amounts are per election cycle.</p>
Wyoming	Unlimited

- a. Primary, general and special elections are considered separate elections; an individual may contribute the state amount in each election.
- b. In Arizona, a PAC that has received contributions from 500 or more individuals in amounts of \$10 or more in a one-year period may qualify as a "Super PAC." Qualification is valid for two years.
- c. In Arkansas, a "Small Donor PAC" is a person or group who receives contributions from one or more individuals in order to make contributions to candidates, does not accept any contributions aggregating more than \$25 from any individual in a calendar year, and properly registers under the law.
- d. In Louisiana, a "Big PAC" is a PAC with over 250 members who contributed over \$50 to the PAC during the preceding calendar year and has been certified as meeting that membership requirement.
- e. In Colorado, a "small donor committee" is any committee that has accepted contributions only from natural persons contributed no more than \$50 in the aggregate per year.
- f. Candidates participating in "Clean Elections" public financing may not accept private contributions after qualifying for public funds.
- g. An "independent committee" must have filed a statement of organization at least six months before the election in which the committee wishes to make contributions, must have supported or opposed three or more candidates for nomination or election, and must have received contributions from at least 25 people.
- h. Vermont's attempt to limit out-of-state contributions was declared unconstitutional on August 7, 2002 by the U.S. 2nd court of appeals (view the decision)
- i. In California, a "small contributions committee" is a committee which has been in existence for at least six months, receives contributions from 100 or more persons in amounts of not more than \$200 per person, and makes contributions to five or more candidates (Cal. Govt. Code sec. 85203)

For More Information

Jennie Orage Bowser [mailto:elections-info@ncsl.org?subject=\[Campaign Finance\]](mailto:elections-info@ncsl.org?subject=[Campaign Finance])

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Denver Office: Tel: 303-364-7700 Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | Map
 Washington Office: Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001

Attachment B

Alaska Public Offices Commission
"Frequently Asked Questions About Unions, Corporations, etc. & PACs"
Available at <http://www.state.ak.us/apoc/faqpac.htm>



Alaska Public Offices Commission

ANCHORAGE: (907) 276-4176
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FREQUENTLY ASKED QUESTIONS
ABOUT UNIONS, CORPORATIONS, ETC. & PACS

BACKGROUND:

Prior to 1997, labor unions and corporations were a major source of contributions for state and municipal candidates. On January 1, 1997, corporations, companies, partnerships, associations, organizations, business trusts or societies, labor unions, or publicly funded entities that do not satisfy the definition of group in AS 15.13.400 were prohibited from contributing to candidates and groups. However, employees or members of those entities may set up separate political groups to campaign for or against candidates.

GETTING STARTED:

1. What is a PAC?

The term PAC is commonly used when talking about a group of individuals who have an interest in common and want to support or oppose candidates. Under the Alaska Campaign Disclosure Law, a political action committee, or PAC, is another name for a group. A "group" is two or more individuals who act jointly to influence the outcome of an election of a state or municipal candidate or ballot measure.

2. How do we get started?

When the members of an entity decide to form a group, they must create a separate account. No funds from the entity's general operating fund may be used. This group must be registered with the APOC (see "FAQ About Groups Formed to Support/Oppose Candidates" for registering and reporting requirements).

3. May the entity announce the formation of the PAC?

Yes. The entity may make an initial announcement of the formation of the PAC to the employees or members as long as the following conditions are satisfied:

- The announcement is of the same nature and format as previous communications on nonpolitical matters.
- The announcement does not solicit contributions to the PAC.
- It may provide contact information for the PAC.

4. From whom may the PAC solicit contributions?

There are no restrictions on whom the PAC may solicit. However, the following conditions must be met by all contributors to the PAC:

- Contributions to the PAC must be from individuals and other PACs and must be voluntary.
- Individuals may not contribute more than \$500 per year to the PAC (cash contributions are not to exceed \$100 annually. Direct PAC contributions up to \$1000 per year).
- Fifty percent of the PAC contributions may come from non-Alaskan residents (AS 15.13.070).

5. May the entity assist in collecting the contributions to the PAC?

The entity may provide the services necessary to set up a payroll deduction plan. In providing these services, the entity must not exercise any control over the use of the PAC funds, except to reject and return prohibited contributions. 2 AAC 50.250(a)(3)(F)

6. May the entity assist in preparing APOC reports?

The entity may provide administrative assistance necessary to comply with the legal and accounting requirements of the Campaign Disclosure Law. This assistance includes bookkeeping services and legal advice. 2 AAC 50.250(a)(3)(F)

OPERATING THE PAC:

Under current law, corporations, companies, partnerships, associations, organizations, business trusts or societies, labor unions, or publicly funded entities that do not satisfy the definition of group in AS 15.13.400 are prohibited from contributing to candidates and groups (excluding ballot measure groups).

Prohibited contributions include both monetary and nonmonetary assistance. Thus, it is important that the PAC operate independently from the entity.

7. May the PAC use the entity's mailing list?

Yes. The Commission has concluded that an entity may make its own membership or mailing list available to its PAC. However, a PAC may not accept another entity's mailing list without reimbursing that entity at a commercially reasonable rate. (AO97-20-CD)

8. May the PAC use the entity's facilities and equipment?

Yes. A PAC may use the entity's facilities and equipment, as long as the PAC reimburses the entity for all costs involved at a commercially reasonable rate in a commercially reasonable period of time. Examples of such items include rooms, computers and phones. Reimbursable expenses might include a portion of operating and maintenance costs of the computer system, extended janitorial services if the building is kept open after hours, or any other cost that might be associated with using the facilities. (AO97-20-CD)

9. What may the entity do independently of the PAC?

An entity may communicate with its members or employees on political subjects and the communication is not a contribution if the following conditions are met:

- The communication is of the same format and nature used by the entity when it has communicated on nonpolitical subjects.
- The communication does not request members or their families to do any action other than getting out to vote or voting for or against a candidate or ballot proposition or question.
- The communication may not solicit individual contributions to a clearly identified candidate or group. (AAC 50.250.010-3)(D)

10. Where can I find additional information about the relationship between an entity and its PAC?

The Commission has issued detailed advisory opinions to various entities. You can find these advisory opinions on our web site at www.state.ak.us/apoc/advise.htm. If you still have questions, contact us at 476-4176 or 800-478-4176 (outside the Anchorage area).

rev 9/07

Attachment C

National Institute on Money in State Politics
"Independent Expenditures in Five State Alter Political Landscapes"
Available at <http://www.followthemoney.org/press/Reports/200708021.pdf>



INDEPENDENT EXPENDITURES, 2006

INDEPENDENT EXPENDITURES IN FIVE STATES ALTER
POLITICAL LANDSCAPES

By

ANNE BAUER

With Assistance From Scott Jordan

AUGUST 1, 2007

The National Institute on Money in State Politics is a nonpartisan 501(c)3 tax-exempt charitable organization dedicated to accurate, comprehensive and unbiased documentation and research on campaign finance at the state level. It compiles campaign-contribution information on every state-level candidate, major party committee and non-bond ballot measure committee in the country.

The Institute serves as the nation's only complete source of this data and makes its information freely available online at www.FollowTheMoney.org.

833 North Last Chance Gulch, Second Floor • Helena, MT 59601

Phone: 406-449-2480 • Fax: 406-457-2091

E-mail: institute@statemoney.org

www.FollowTheMoney.org

This publication was made possible by grants from

JEHT Foundation, *Fair and Participatory Elections*
Carnegie Corporation of New York, *Strengthening U.S. Democracy*
Ford Foundation, *Program on Governance and Civil Society*
The Pew Charitable Trusts, *State Policy Initiatives*
Rockefeller Brothers Fund, *Program on Democratic Practice*

The statements made and the views expressed are solely the responsibility of the Institute.

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OVERVIEW

In addition to making direct contributions, political donors have another tool at their disposal to influence the outcome of elections — independent expenditures. These expenditures are, by definition, made in support of or in opposition to candidates or ballot initiatives *without the knowledge or cooperation of the target*. While states often limit direct contributions to candidates or committees, they cannot limit independent expenditures.

Although 39 states have laws requiring some kind of disclosure of independent expenditures, this report focuses on the independent expenditure data obtained from five states with the best public accessibility — Alaska, California, Colorado, Maine and Washington.

Independent expenditures made in these five states in 2005 and 2006 totaled \$115 million. Of that, approximately \$62 million was spent on candidates and \$46 million on ballot measures.¹ These expenditures supplemented the \$1.1 billion in contributions raised in the same states — \$393 million raised by ballot measure committees and \$286.4 million raised by legislative and gubernatorial candidates.² The remainder was raised by party committees and statewide candidates.

More than one third, or \$22.1 million, of the \$62 million spent on candidates targeted those in gubernatorial races. In fact, in three of the five states — California, Maine and Colorado — the gubernatorial race captured most of the independent expenditures.

Many candidates received significant boosts to their campaigns from independent expenditures made on their behalf or in opposition to their rivals. For example, Washington's Supreme Court candidates raised a total of \$1.7 million in direct contributions, while independent expenditures targeting those races exceeded \$2.7 million. Targeted legislative candidates in Maine, Colorado and California also had more independent expenditures made on their behalf than flowed into their campaign coffers.

COMPARISON OF INDEPENDENT EXPENDITURES AND CONTRIBUTIONS TO STATE-LEVEL COMMITTEES, 2005-2006

STATE	TOTAL INDEPENDENT EXPENDITURES	TOTAL CONTRIBUTIONS ³
California	\$104,748,209	\$996,342,383
Washington	\$6,384,550	\$45,221,911
Alaska	\$1,995,365	\$14,221,108
Maine	\$1,269,306	\$8,758,179
Colorado	\$386,120	\$35,797,923
TOTAL	\$114,783,350	\$1,100,341,503

¹ Due to the types of reports filed, and the common practice among committees of listing multiple targets without differentiating how much of the expenditure went to each target, not all of the targets could be identified. Therefore, the amount which can be attributed to specified targets with certainty is lower than the overall amount reported by just over \$6 million.

² Data collection for the 2006 election cycle is substantially complete as of July 31, 2007. However, these figures will increase upon completion of the Institute's 2006 database.

³ Ibid.

State contribution limits appeared to have an effect on the amounts of independent expenditures. Deep-pocketed supporters commonly contributed to both an individual's campaign, sometimes to the maximum allowed by law, and then also spent many times the state limit on the candidate's behalf on independent expenditures.

California is one of the largest states in terms of political giving, and the 2005-2006 election cycle was no exception. State-level campaign committees in the Golden State raised a total of \$996.3 million in contributions. An additional \$104.7 million was spent on independent expenditures, or 13 percent of the contributions raised. California limits the amount that can be contributed per election to candidates.⁴ Independent expenditures targeting candidates reached \$51.1 million. There are no limits on giving to ballot measure committees, yet independent expenditures totaling \$43.9 million were made on several measures, most often targeting Republican Gov. Arnold Schwarzenegger's 2005 slate of initiatives.

In **Washington**, independent expenditures totaled nearly \$6.4 million, less than 1 percent of which targeted ballot measures. In contrast, ballot measure committees raised \$11 million in direct contributions. Candidates for state House and Senate raised \$18.1 million in campaign contributions, while independent expenditures targeting those same candidates totaled \$3.1 million. Washington limits contributions by political action committees, unions, corporations and individuals to \$700 per legislative candidate and \$1,400 per judicial candidate for both the primary and the general elections. Party committee giving is limited, as well.

Independent expenditures made in **Alaska** reached almost \$2 million. Of that, \$1.6 million was spent by ConocoPhillips, BP Alaska, and ExxonMobil to fight General Measure 2, which sought to impose a tax on oil and gas leases overlying untapped natural gas deposits. The three ballot measure committees opposing that measure raised \$1.7 million — the same amount as expended independently. ExxonMobil and BP Alaska contributed \$455,000 each to two of those ballot measure committees and ConocoPhillips gave \$250,000. It is difficult to say why the companies took the three-pronged approach of making independent expenditures — giving to ballot measure committees, giving to committees making independent expenditures, and contributing money directly to ballot measure committees — given that Alaska does not limit direct contributions to ballot measure committees.

Independent expenditures were important to party committees in **Maine** because the state limits the amount a party committee can give to a privately financed candidate to \$500 per election in the gubernatorial race and \$250 to legislative candidates per election. Moreover, no contributions may be made to a candidate once the candidate is certified as publicly financed.⁵ The state of Maine fully subsidizes candidates who obtain a number of signatures of registered voters in support of their candidacy and who raise seed money in multiple contributions between \$5 and \$100.

Political party committees made 93 percent of the \$1.3 million in independent expenditures reported, a figure the Maine Commission on Governmental Ethics and Election Practices believes

⁴ All the states cited in this report define the primary and general elections as separate elections.

⁵ "Contribution Limits: Chart of Limits on Political Party Contributions to Candidates," National Conference of State Legislatures [on-line]; available from <http://www.ncsl.org/programs/legismg/about/PartyCand.htm#c>; Internet; accessed July 26, 2007.

is low due to the state's narrow definition of independent expenditure.⁶ Democratic party committees made two-thirds of the expenditures and Republicans made 29 percent.

In **Colorado**, independent expenditures totaling \$383,535 were spent on candidates. These expenditures amounted to very little compared to the \$19.3 million raised by candidate committees during that cycle.

As in California and Maine, the race for the governor's office attracted the most independent expenditures. Two of the six gubernatorial candidates were targeted — Republican Bob Beauprez, and his Democratic opponent Bill Ritter. The \$204,672 spent on these two candidates represented less than 3 percent of the nearly \$8.1 raised by the two candidates themselves.

HOW THE MONEY WAS SPENT

Advertising expenses, which totaled \$56.5 million, accounted for about half of the independent expenditures. Broadcast media was the most expensive. It rang up at \$52.7 million — more than twice the \$25.2 million spent on direct mails, the next largest expense. "Message support" expenses, such as direct mailings, phone banks, polls and surveys, accounted for almost as much as advertising, at \$55 million.

CATEGORIES OF INDEPENDENT SPENDING, 2005-2006

CATEGORY	SUB-CATEGORY	AMOUNT
Advertising	Broadcast Media	\$52,741,030
	Other Advertising	\$1,940,130
	Print Media	\$1,008,627
	Billboards, Internet, and Other Media	\$805,457
ADVERTISING TOTAL		\$56,495,245
Message Support	Direct Mail	\$25,218,559
	Phone banks, Door-to-Door, Campaign Materials	\$15,328,865
	Signature Gathering and Other Activities	\$11,397,302
	Consultants	\$1,884,657
	Polling/Surveys	\$1,320,134
MESSAGE SUPPORT TOTAL		\$55,149,517
Administration	Salaries/Wages	\$805,457
	Professional Services	\$497,400
	Insurance and Miscellaneous Fees	\$478,600
	Travel	\$457,299
	Supplies & Equipment	\$105,374
	Food & Meetings	\$95,047
	Rent & Utilities	\$26,339
	Postage/Courier	\$2,554
ADMINISTRATION TOTAL		\$2,463,722
Other Expenses	Fundraisers	\$605,190
	Transfers/Other	\$69,676
OTHER TOTAL		\$674,865
TOTAL		\$114,783,349

⁶ Maine Commission on Governmental Ethics and Election Practices, "2007 Study Report: Has Public Funding Improved Maine Elections?," p. 56.

ALASKA

Eighteen organizations and five individuals made nearly \$2 million in independent expenditures during Alaska's 2006 elections. The money almost exclusively targeted two ballot measures; in fact, 95 percent of the independent expenditures focused on those measures.

General Measure 2, which would have imposed a tax on oil and gas leases, was the primary lightning rod of independent expenditures, attracting \$1.7 million of expenditures made in opposition to it. These expenses supplemented the nearly \$1.7 million raised directly by three committees that formed to defeat the measure.

Although Alaska law prohibits corporate giving to PACs, there are no such limits on giving to ballot measure committees. Nevertheless, three large oil companies not only gave significant amounts to ballot measure committees, but also made significant independent expenditures. ConocoPhillips, BP Alaska, and ExxonMobil collectively spent \$1.6 million on independent expenditures and gave another \$1.1 million in direct contributions to committees opposing the measure, for a total of \$2.7 million. Their efforts and expenses paid off — two-thirds of the voters rejected the measure in November.

The NorthWest CruiseShip Association (NWCA) made \$181,752 in independent expenditures in their unsuccessful attempt at defeating Primary Measure 2, on the state's August primary ballot. The measure, which levies a voyage and gambling tax on cruise ships in Alaskan waters, was approved.

Of the nearly \$2 million spent in Alaska, \$1.7 million, or 86 percent, was spent on advertising. The remainder — \$272,415 — was spent on other means of supporting or opposing the targets, such as polling and surveys, printing and direct mail.

In sharp contrast to ballot measures, candidates were the target of only \$4,337 worth of independent expenditures, with \$3,388 targeting then-incumbent Gov. Frank Murkowski, a Republican.

TOP SPENDERS

Seven of the 23 spenders accounted for 95 percent of the nearly \$2 million in independent expenditures. ConocoPhillips Alaska led the pack, spending about \$1.5 million for its successful efforts opposing General Measure 2.

Other top spenders opposing General Measure 2 were:

- the Alaska Support Industry Alliance, which "represents companies and organizations that provide goods and services for Alaska's oil, gas and mineral industries,"⁷ spent \$74,944,
- the Resource Development Council for Alaska, a group which "works for all resource sectors, including mining, oil and gas, fisheries, timber and tourism."⁸ spent \$64,982,

⁷ "About Us," *The Alaska Support Industry Alliance* [on-line]; available from <http://www.alaskaalliance.com/about.php>; Internet; accessed July 6, 2007.

- BP Alaska spent \$58,219;
- ExxonMobil spent \$36,355;
- Alaska's Future, a group funded in part by two contributions of \$50,000 from both ExxonMobil and BP Alaska,⁹ spent \$34,203.

MAJOR SPENDERS IN ALASKA, 2006

MAJOR SPENDERS	TOTAL	POSITION
ConocoPhillips Alaska	\$1,473,182	Oppose General Measure 2
Alaska Support Industry Alliance	\$74,944	Oppose General Measure 2
Resource Development Council for Alaska	\$64,982	Oppose General Measure 2
BP Alaska	\$58,219	Oppose General Measure 2
ExxonMobil	\$36,355	Oppose General Measure 2
Alaska's Future	\$34,203	Oppose General Measure 2
GENERAL MEASURE 2 TOTAL	\$1,741,885	
NorthWest CruiseShip Association	\$151,135	Oppose Primary Measure 2
PRIMARY MEASURE 2 TOTAL	\$151,135	
TOTAL	\$1,893,020	

In addition to making these independent expenditures, several top spenders also made substantial contributions to committees that formed around the measures. ExxonMobil and BP Alaska contributed \$400,000 each to Alaska First, the principal committee organized in opposition to General Measure 2. ConocoPhillips provided \$250,000. ExxonMobil and BP Alaska also gave \$55,000 each to the Alaska Oil and Gas Association, another committee opposing the measure.

Another large spender was the NWCA, which made \$181,752 worth of independent expenditures in opposition to Primary Measure 2. The association's independent expenditures were in addition to providing all but \$8,500 of the \$1.3 million raised by Alaskans Protecting Our Economy, which formed to oppose the measure.

In contrast to the significant sums spent on the ballot measures, either through direct contributions or independent expenditures, these same entities gave very little to candidates. Of the top spenders, only two contributed to state-level candidates. BP Alaska gave a total of \$12,250 to 15 candidates for state office, and ConocoPhillips gave \$10,750 to 17 candidates, as well as \$2,000 to the Alaska Republican Party.

OTHER SPENDERS

Alaska allows political subdivisions of the state, such as municipalities, school districts, and regional educational attendance areas, to use public funds to influence the outcome of an election.

⁹ "About RDC," *Resource Development Council for Alaska, Inc.* [on-line]; available from <http://www.akrdc.org/membership/>; Internet; accessed July 6, 2007.

¹ Matt Volz, "APOC Delays Alaska's Future Case," *Anchorage Daily News*, Oct. 25, 2006 [newspaper on-line]; available from <http://www.adn.com/news/politics/elections/2006/story/8342082p-8192961c.html>; Internet; accessed July 6, 2007.

concerning a ballot measure, proposition or question — if the funds have been specifically appropriated for that purpose by a state law or a municipal ordinance.¹⁰

Governmental agencies in Alaska spent a total of \$36,015 on various ballot issues. Most of that money, \$28,612, was spent by the Anchorage Department of Parks and Recreation to provide information on a host of municipal bond questions, including a nearly \$5 million bond issue for parks and recreation. The majority of Anchorage Parks and Recreation's money, \$23,532 was spent on Proposition 7, which allowed the city to issue bonds worth up to \$44.1 million for roadway service and drainage improvements and increase the annual municipal tax cap to pay for associated operations.¹¹ Proposition 7 passed with 52 percent of the vote.

The Alaska Judicial Council, an independent citizen's commission created by the Alaska Constitution,¹² spent \$22,248 purchasing advertisements to get judicial retention information out to the public.

PRIMARY TARGETS OF INDEPENDENT EXPENDITURES

Two ballot measures garnered 95 percent of the independent expenditures; all of the money was spent in opposition to them. General Measure 2, vetted by former Governor Wally Hickel and other state politicians as a means of forcing gas companies to build a gas pipeline to transport natural gas to market, was the target of the lion's share of the money, with \$1.7 million. The measure, soundly rejected by 65 percent of the voters, sought to "levy a tax on oil and gas leases overlying large deposits of natural gas."¹³ The tax would have been repealed once the pipeline was built and would have provided for a partial tax credit for any taxes paid while the measure was in effect.

Primary Measure 2 attracted \$151,135 of independent expenditures, all in opposition.

TOP TARGETS IN ALASKA, 2006

TARGET	PURPOSE	AMOUNT AGAINST
General Measure Two	Gasoline Tax	\$1,742,670
Primary Measure Two	Cruise Ship Tax	\$151,135
TOTAL		\$1,893,805

HOW THE MONEY WAS SPENT

Most of the independent expenditures, 86 percent, paid for print, television, and radio advertisements. The remaining paid polls and surveys, printing, and direct mail.

¹⁰ State Statute 15.13.145, *Alaska State Legislature Textual Infobases* [on-line]; available from <http://www.legis.state.ak.us/cgi-bin/foi/loisa.dll/staltx06/query=1512E13!2E145/doc/%7B@6856%7D?>; Internet; accessed June 14, 2007.

¹¹ "2006 Ballot Propositions," *Municipality of Anchorage Municipal Election* [on-line]; available from <http://www.muni.org/Assembly2/2006Ballotprops.cfm>; Internet; accessed July 10, 2007.

¹² Alaska Judicial Council [on-line]; available from <http://www.ajc.state.ak.us>; Internet; accessed July 25, 2007.

¹³ "Ballot Measures," *Division of Elections* [on-line]; available from http://www.elections.state.ak.us/ballot_measures.php; Internet; accessed July 9, 2007.

CATEGORIES OF SPENDING IN ALASKA, 2006

CATEGORY	SUB-CATEGORY	AMOUNT
Advertising	Mixed Advertising	\$1,654,719
	Other Media	\$34,233
	Broadcast Media	\$22,248
	Print Media	\$11,749
ADVERTISING TOTAL		\$1,722,950
Message Support	Polling/Surveys	\$149,600
	Other Campaign Support	\$61,592
	Get-out-the-Vote	\$59,035
	Direct Mail	\$2,188
MESSAGE SUPPORT TOTAL		\$272,415
TOTAL		\$1,995,365

Seventy-three percent of all the money spent on advertising went to Bradley Reid and Associates, an advertising firm based in Anchorage. ConocoPhillips and BP Exploration paid the firm nearly \$1.4 million to oppose General Measure 2, and the NWCA paid the firm \$24,000 for ads in opposition to Primary Measure 2.

CALIFORNIA

More than 190 committees in California made \$104.7 million in independent expenditures during the 2005 and 2006 elections. These expenditures are in addition to the \$782 million raised directly by state-level party, candidate, and ballot measure committees.

Independent expenditures targeting candidates accounted for \$60.3 million, or 19 percent of the \$319.7 million candidates raised in direct contributions. An additional \$43.9 million was spent on ballot measures, supplementing the \$369.8 million raised directly by ballot measure committees.

An analysis of the independent expenditure reports filed by committees in California reveals:

- The top 10 spenders made two-thirds of all expenditures.
- Governor Schwarzenegger's California Recovery Team spent \$28.3 million, 27 percent of all independent expenditures.
- The gubernatorial race between Phil Angelides and Arnold Schwarzenegger in 2006 and Gov. Schwarzenegger's slate of four ballot initiatives, which failed in the November 2005 special election, took up \$54 million, or 52 percent of all the expenditures.
- Independent expenditures went primarily for advertising, at a cost of \$51.7 million, and message support activities such as direct mail and phone banking, at \$49.9 million.

With contribution limits in place in California, independent expenditures provided another vehicle for special interests to influence the outcome of the elections. California limits the amount which can be given to candidates per election.¹⁴ Individuals, corporations, unions and committees can give up to \$22,300 to a gubernatorial candidate, \$5,600 to other statewide candidates, and \$3,300 to legislative candidates.¹⁵ Additionally, these donors are limited to \$25,000 in contributions to political parties to benefit candidates¹⁶ and \$5,600 to any committee if the contributions are earmarked for a candidate.¹⁷ Contribution limits do not apply to ballot measure committees.

Independent expenditures made on behalf of or in opposition to candidates surpassed the contribution limits many times over. It should be noted, however, that organizations making independent expenditures often did not make the maximum or even any contributions to the candidates they supported.

¹⁴ Primary, general, and special elections are considered separate elections of purposes of contribution limits

¹⁵ "Campaign Disclosure Manual 1," *California Fair Political Practices Commission*, June 2006, p.1-1 and Appendix 1-4.

¹⁶ "Limits on Contributions to Political Parties," *National Conference of State Legislatures* [on-line]; available from http://www.ncsl.org/programs/legismgt/about/contrib_pol_parties.htm; Internet; accessed July 18, 2007.

¹⁷ "Limits to PACs," *National Conference of State Legislatures* [on-line]; available from http://www.ncsl.org/programs/legismgt/about/cont_to_pac.htm; Internet; accessed July 18, 2007.

TOP SPENDERS

Ten committees collectively spent \$70.5 million on independent expenditures, two-thirds of the total spent. One committee alone, Gov. Schwarzenegger's California Recovery Team, spent \$28.3 million on independent expenditures, more than one-quarter of the total made.

MAJOR SPENDERS IN CALIFORNIA, 2005-2006

SPENDER	TOTAL	POSITION
Governor Schwarzenegger's California Recovery Team	\$28,268,883	Support Schwarzenegger
Californians for a Better Government	\$9,865,582	Support Angelides
Alliance for a Better California	\$7,890,195	Support & Oppose Candidates & Measures
California Association of Hospitals Strengthening Our Lives Through Education, Community Actions & Civic Participation Candidate PAC	\$6,395,072	Support Proposition 86
Team 2006, Sponsored By California Sovereign Indian Nations	\$5,360,509	Support & Oppose Candidates
California Alliance for Progress & Education an Alliance of Professionals Employers & Small Business	\$3,094,659	Support Candidates
Working Californians	\$2,958,037	Support & Oppose Candidates
Service Employees International Union & Affiliates	\$2,637,860	Support Candidates
California Nurses Association	\$2,191,709	Support & Oppose Candidates
California Nurses Association	\$1,819,317	Support & Oppose Candidates & Measures
TOTAL	\$70,481,823	

Governor Schwarzenegger's California Recovery Team, a committee controlled by the governor, spent over \$28 million in independent expenditures, mostly in support of his 2005 slate of initiatives. The California Recovery Team put most of its money, \$23.4 million, into purchasing television and radio advertising. Consultants, direct mail and other message support activities accounted for an additional \$4.1 million of the committee's spending. In addition, this committee gave \$2 million to the California Republican Party and to the ballot measure committee Campaign for Child Safety Ballot Measure.

To fund its expenditures, the committee raised \$44.8 million in contributions in 2005 and 2006. Gov. Schwarzenegger himself contributed \$7.7 million, and his re-election committee, Californians for Schwarzenegger 2006, gave another \$1 million. Other top contributors were: William A. Robinson, founder of the transportation company DHL of Teton, Idaho, gave \$2.2 million; Alex G. Spanos, president and chief executive officer of AG Spanos Companies of Stockton, Calif., gave \$1.5 million; the Jerry Perenchio Living Trust, started by media investor Perenchio, of Los Angeles, gave \$1.5 million; and B. Wayne Hughes, chairman of Public Storage, Inc., of Glendale, Calif. gave \$1 million. In comparison, Schwarzenegger's campaign committee raised \$45.7 million in contributions during the same period.

Californians for a Better Government, a committee supporting Democrat Phil Angelides' unsuccessful gubernatorial bid in 2006, made nearly \$9.9 million in independent expenditures —

\$9.1 million on television and radio advertising; \$681,965 on direct mail; and \$57,500 on polling and surveys. This committee made no direct contributions to candidates or ballot measures.

Six labor organizations and five individuals provided the funds for these expenditures. The preponderance of the committee's money, \$8.7 million, came from Angelides' partner, Sacramento developer Angelo Tsakopoulos and Tsakopoulos' daughter, Eleni Tsakopoulos-Kounalakis.¹⁸ The California Teachers Association also kicked in \$1 million; the next largest contributor, the International Brotherhood of Electrical Workers (IBEW), gave \$100,000 — two IBEW locals gave \$50,000 each.

The Alliance for a Better California committee is a coalition of labor organizations.¹⁹ The committee made almost \$7.9 million in independent expenditures in 2005 and 2006. It spent more than \$4 million in an effort to defeat Gov. Schwarzenegger; \$1.8 million against Proposition 77, a measure dealing with reapportionment; \$1.2 million to support Angelides; and \$875,000 to a measure which failed to make it on the ballot, but would have required shareholder consent for corporate contributions to ballot measures. Television and radio advertising commanded most of the committee's spending — \$5.7 million. Voter contact and message support cost an additional \$1.8 million.

In addition to making independent expenditures, this committee made direct contributions of \$1 million to the California Democratic Party.

To fund its expenditures, the Alliance for a Better California took in \$44.4 million in 2005 and 2006. The California Teachers Association and other state affiliates of the National Education Association gave a total of \$23.5 million. State and local chapters of the Service Employees International Union (SEIU) contributed more than \$11 million. Other large contributors included the California Correctional Peace Officers Association, with almost \$3.7 million, and the California School Employees Association, with \$1.4 million.

The California Association of Hospitals and Health Systems (CAHHS) made almost \$6.4 million in independent expenditures to gather signatures to qualify a cigarette tax initiative, which became Proposition 86 once it qualified. CAHHS gave an additional \$10.9 million in direct contributions to the committee promoting the measure, Yes on Proposition 86.

Strengthening Our Lives Through Education, Community Actions and Civic Participation (SOL), a coalition of labor organizations, made nearly \$5.7 million in independent expenditures supporting and opposing candidates and ballot measures through both its candidate political action committee and issues committee.²⁰ SOL's issues committee spent \$362,783 on ballot measures, while its candidate committee spent almost \$5.4 million. Bucking the trend set by the other committees, the coalition spent 88 percent of its money, \$5 million, on message support, primarily

¹⁸ Malcolm MacLachlan, "Fiscal Official in New Committee Backing Angelides Had Role in Davis Recall," *Capitol Weekly News*, April 23, 2006 [newspaper on-line], available from http://www.capitolweekly.net/news/article.html?article_id=661; Internet, accessed July 10, 2007.

¹⁹ The Alliance for a Better California [on-line]; available from <http://www.betterca.com/>; Internet, accessed July 11, 2007.

²⁰ The Strengthening Our Lives Through Education, Community Actions and Civic Participation's reports identified which candidates it targeted, but contained conflicting information about whether the candidates were supported or opposed. Calls to Xavier Gonzalez, the coalition's executive director, went unreturned.

through voter contact.²¹ The Strengthening Our Lives coalition made no direct contributions to ballot measure or candidate committees.

To fund their activities, state and local affiliates of the SEIU contributed about \$4.3 million to both committees in 2006.

Team 2006, Sponsored By California Sovereign Indian Nations, made \$3.1 million in independent expenditures in support of gaming-friendly candidates, including two hotly contested races: \$959,000 on behalf of Tony Strickland, a Republican candidate for state controller, and \$521,429 on behalf of Democratic Assemblywoman Nicole Parra. Team 2006 spent \$2.4 million, 80 percent of its budget, on television and radio advertising. It also spent \$536,796 on direct mail, \$116,639 on polling and surveys, and \$48,706 on message support, primarily phone banking.

Team 2006 collected \$3.2 million to pay for these expenditures — \$850,000 from the Agua Caliente Band of Cahuilla Indians; \$800,000 each from the Pechanga Band of Luiseno Indians and the Sycuan Band of the Kumeyaay Nation; \$685,715 from the San Manuel Band of Mission Indians; and \$125,000 from the Soboba Band of Luiseno Indians. Although Team 2006 did not contribute directly to candidates or ballot measures, its members did. Often, their contributions to Senate and Assembly candidates met the limit. However, direct contributions reported by those tribes to Tony Strickland's campaign totaled only \$30,000 and to Nicole Parra's totaled only \$25,700. American Indian tribes in California fought to be excluded from campaign finance disclosure laws in recognition of their sovereignty. However, in December 2006, the state Supreme Court ruled the tribes were subject to the law.²²

The California Alliance for Progress and Education made nearly \$3 million in independent expenditures primarily in support of Democratic candidates, including State Senators Lou Correa, Ron Calderon, and Gloria Negrete-McLeod and Assemblywoman Nicole Parra. About half of the expenditures, \$1.5 million, were made for television and radio advertising and almost \$1.1 million paid for direct mail.

To fund its activities, the committee raised \$1 million from the California Dental Association and \$1.2 million from the California Association of Realtors. Other contributors included medical, insurance, real estate mortgage brokers and building industry organizations.

Working Californians spent more than \$2.6 million on independent expenditures. Expenditures in support of Democrat John Chiang's successful race for state controller got the bulk of the money, \$2.2 million, with the rest going to Phil Angelides' gubernatorial campaign. However, since no purpose for the expenditures was listed on the committee's reports, the spending categories could not be determined. This committee made no direct political contributions to candidates or ballot measure committees.

²¹ The majority of the contributions listed the purpose as "voter contact." The Institute interpreted that to mean direct contact with voters by someone from Strengthening Our Lives Through Education, Community Actions and Civic Participation via telephone or in person. Calls for clarification about the purpose went unreturned by the coalition's executive director.

²² Bob Egelko, "Ruling on Campaign Disclosure: Tribes Can Be Sued for Late Gilt Report," *San Francisco Chronicle*, Dec. 22, 2006 [newspaper on-line]; available from <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/12/22/BAG6AN4FPN1.DTL>, Internet, accessed July 25, 2007.

Major contributors to Working Californians were UNITE HERE! with \$450,000, SEIU International with \$400,000, and the California State Council of Service Employees with \$300,327.

The SEIU and its Affiliates collectively made independent expenditures of \$2.2 million. Of that money, \$1.1 million went to support Phil Angelides and the remainder was distributed to support or oppose many other candidates. SEIU spent 67 percent of its money — \$1.5 million — on message support, including door-knocking, phone banking, printing of brochures and flyers, and direct mails. Administrative expenses of \$481,246 for salaries, payroll taxes, travel and miscellaneous expenses, accounted for the second largest share of expenditures.

The committee's independent expenditures were overshadowed by the \$8 million the SEIU and its affiliates gave in direct contributions to state committees. The main beneficiary of SEIU's largesse was the California Democratic Party, which received \$2.8 million. Other large contributions included \$1.6 million to the committee Yes on 82 – Preschool for All and \$484,000 to Phil Angelides.

The California Nurses Association had three committees that made independent expenditures — the California Nurses Association Initiative Political Action Committee, the California Nurses Association Political Action Committee (CAN-PAC), and Working Families for Better Healthcare. These three committees spent a total of \$1.8 million on candidates and ballot measures, with the bulk of the money — \$1.4 million — going to support Proposition 89, a campaign finance measure, in 2006. Of that, \$1.1 million was spent on signature gathering for that measure. In addition to these independent expenditures, the California Nurses Association gave \$5.3 million in direct contributions to candidates and ballot measures.

ORGANIZED LABOR CONTRIBUTIONS

Labor organizations were a potent force in California politics in 2005 and 2006. In all, labor organizations and related coalitions made \$40.7 million in independent expenditures. Beyond independent expenditures, identified labor organizations made a combined total of \$56 million in direct political contributions to ballot measure, candidate, and party committees in 2005 and 2006.

PRIMARY TARGETS OF INDEPENDENT EXPENDITURES

Independent expenditures targeting candidates accounted for \$60.3 million, while \$43.9 million was spent on ballot measures. Eighty-five percent of the independent expenditures were made in support of the targets, while just \$16 million was spent in opposition.

The 2006 gubernatorial race attracted slightly more than \$21 million, while Schwarzenegger's 2005 slate of initiatives attracted \$33 million. The top 10 targets captured 65 percent of all independent expenditures.

TOP TARGETS IN CALIFORNIA, 2005-2006

TARGET	OFFICE/PURPOSE	SUPPORT	OPPOSE	TOTAL
Phil Angelides	Governor	\$15,491,364	\$7,151	\$15,498,515
Proposition 76* (2005)	School Funding	\$9,911,812	\$421,318	\$10,333,129
Proposition 75* (2005)	Employee Consent to Union Dues	\$7,791,067	\$706,835	\$8,497,902
Proposition 77 (2005)	Reapportionment	\$5,022,273	\$2,378,216	\$7,400,489
Proposition 74* (2005)	Public School Teacher Waiting Period	\$6,234,663	\$609,101	\$6,843,763
Proposition 86	Cigarette Tax Increase	\$6,495,471	\$39,667	\$6,535,138
Arnold Schwarzenegger	Governor	\$235,784	\$5,308,203	\$5,543,987
John Chiang	Controller	\$3,428,518	\$0	\$3,428,518
Lou Correa	State Senate	\$2,039,888	\$55,142	\$2,095,029
John Garamendi	Lieutenant Governor	\$1,635,430	\$121,667	\$1,757,096
TOTAL		\$58,286,270	\$9,647,300	\$67,933,566

* In addition, the CUEA HOPE committee spent \$3,203 on initiatives 74, 75, and 76 without specifying how much of that amount went to each one.

Phil Angelides, Schwarzenegger's Democratic challenger in the governor's race, benefited from \$15.5 million of independent expenditures made on his behalf. Neither Angelides nor Schwarzenegger accepted the voluntary spending limits of the state's Political Reform Act, which would have capped spending for the governor's race at \$6 million in the primary and \$10 million in the general election.

Propositions 74 – 77, all of which failed, garnered a total of \$33 million in independent expenditures. They were contained in a package presented by Gov. Schwarzenegger during a special election held in 2005 and include:

- Proposition 74** sought to increase from two to five years the amount of time in service before a teacher could be granted permanent status. A total of \$6.8 million was spent on this initiative. Nearly all the \$6.2 million spent in support of Proposition 74 came from Gov. Schwarzenegger's California Recovery Team. Several labor, Democratic and progressive organizations spent \$609,101 to oppose this measure. The United Teachers Los Angeles PACE spent \$228,021 and Standing Up for California, the committee headed by Phil Angelides, spent \$175,604.
- Governor Schwarzenegger's California Recovery Team spent nearly \$7.8 million on independent expenditures supporting **Proposition 75**, which would have required annual consent of union employees to pay union dues. Opponents spent \$706,835, about one-tenth as much. The American Federation of Teachers Guild San Diego Community College District spent \$219,818, Standing Up for California spent \$175,475, and the California Nurses Association spent \$75,117.
- Proposition 76**, one of Schwarzenegger's slate of 2005 initiatives, would have fundamentally changed the way schools were funded. The top organization making independent expenditures in favor of Proposition 76 was Governor Schwarzenegger's California Recovery Team, which spent almost \$9.7 of the \$9.9 million total expenditures made in favor of the measure. Opponents spent \$421,318; the largest

single spender opposing Proposition 76 was Standing Up for California, with \$176,004. The committee Workers Families for Faster Commutes, Cleaner Air California Labor Federation spent \$61,621 and California Nurses Association spent \$52,676 opposing the measure.

- **Proposition 77** would have reapportioned legislative districts. Again, the California Recovery Team accounted for most of the independent expenditures made in support of this measure, \$4.6 million. The California Republican Party supported the measure by giving \$398,000. Opponents spent nearly \$2.4 million opposing 77. The largest spenders opposing Proposition 77 were the Alliance for a Better California which spent \$1.8 million and the Strengthening Our Lives committee which spent \$221,166.

A measure on the 2006 ballot also attracted significant independent expenditures. Initiative 86 called for a \$2.60 per pack tax increase on tobacco products to fund health care and health insurance programs. Nearly \$6.4 million of the \$6.5 million spent around this measure came from the California Association of Hospitals and Health Systems (CAHHS). Standing Up for California spent the bulk of the remainder, \$87,974. Opponents of Proposition 86, in contrast, spent very little in independent expenditures; of the \$39,667 spent, \$37,538 came from the Committee to Protect the Political Rights of Minorities. Independent expenditures aside, this ballot measure generated contributions to committees in excess of \$83 million; over \$66.6 million of that was spent by opponents. Proponents contributed \$16.6 million, which included \$11 million from the California Association of Hospitals and Healthcare Systems.

Gov. Schwarzenegger's campaign, which raised \$45.7 million in direct contributions, generated significant independent expenditures, mostly in opposition to his candidacy. Of the \$5.5 million spent, \$5.3 million went to oppose him. Most of the money spent in opposition to the governor, \$4 million, came from the labor coalition Alliance for a Better California, which also made independent expenditures opposing the governor's package of ballot initiatives in 2005. An additional \$524,337 came from the committee, Strengthening Our Lives Through Education, Community Actions and Civic Participation, and \$449,533 came from Teachers United with Fire Fighters and Correctional Officers.

Organizations supporting Democrat John Chiang's successful run for the state controller's office made \$3.4 million in independent expenditures. Working Californians, a labor coalition, spent \$2.2 million; Strengthening Our Lives Through Education, Community Actions and Civic Participation spent \$661,854; and the committee Public Safety Officers, School Employees and Professional Engineers for Chiang spent \$297,809. Chiang accepted voluntary spending limits, which were \$4 million in the primary and \$6 million in the general election for statewide office. Chiang raised \$3 million for his campaign.

Opponents and supporters of Democrat Lou Correa, who won his state senate race in District 34, made \$2.1 million in independent expenditures. Of the \$2 million spent by supporters, \$646,221 came from the California Alliance for Progress & Education; \$340,335 from Californians for Jobs and a Strong Economy; and \$214,449 from the California Association of Realtors. The California Nurses Association spent \$55,142 opposing his candidacy, through its committee Nurses and

² Fair Political Practices Commission, "The Political Reform Act," 2007, p. 65.

Working Families for Better Healthcare. Correa's campaign took in \$3.1 million in direct contributions.

Democrat John Garamendi's successful campaign for lieutenant governor also saw large independent expenditures. Supporters spent \$1.6 million. Major spenders in support of Garamendi included Taxpayers for Responsible Government, a labor coalition with major funding from the Professional Engineers in California Government, which spent \$676,438; the Strengthening Our Lives Through Education, Community Actions and Civic Participation, with \$544,354 in expenditures; and CAUSE Law Enforcement union with \$130,000. Opposition to Garamendi came from TaxpayersAdvocate.org PAC, which spent \$121,667. Garamendi's campaign took in \$5.4 million, which was well under the voluntary spending limits he accepted.

HOW THE MONEY WAS SPENT

Advertising and message support each accounted for almost half of California's independent expenditures. Radio and television spots consumed nearly all the advertising budget, while voter contact in the form of direct mails, door-knocking and phone banking took up the message support money. Spending on administration and fund raising together added up to less than 3 percent of the total.

CATEGORIES OF SPENDING IN CALIFORNIA, 2005-2006

CATEGORY	SUB-CATEGORY	AMOUNT
Advertising	Broadcast Media	\$50,287,264
	Print Media	\$637,464
	Other Media	\$551,734
	Other Advertising	\$270,579
ADVERTISING TOTAL		\$51,747,041
Message Support	Direct Mail	\$21,243,545
	Phone banks, Door-to-Door, Campaign Materials	\$14,321,614
	Signature Gathering and Other Activities	\$11,335,166
	Consultants	\$1,839,280
	Polling/Surveys	\$1,162,221
MESSAGE SUPPORT TOTAL		\$49,901,826
Administration	Salaries/Wages	\$774,664
	Professional Services	\$497,182
	Insurance and Miscellaneous Fees	\$478,443
	Travel	\$456,666
	Supplies & Equipment	\$105,374
	Food & Meetings	\$89,204
	Rent & Utilities	\$24,267
	Postage/Courier	\$2,230
ADMINISTRATION TOTAL		\$2,428,030
Other Expenses	Fundraisers	\$604,631
	Transfers/Other	\$66,679
OTHER TOTAL		\$671,310
TOTAL		\$104,748,207

COLORADO

Nine committees and five individuals spent \$383,535 on independent expenditures supporting or opposing Colorado candidates in 2006. These expenditures amounted to very little compared to the \$19.3 million raised by candidate committees during that cycle.

As in California and Maine, the race for the governor's office attracted the most independent expenditures. Two of the six gubernatorial candidates were targeted — Republican Bob Beauprez, and his Democratic opponent, Bill Ritter. The \$204,672 spent on these two candidates represented less than 3 percent of the nearly \$8.1 million raised by the two candidates themselves.

Independent expenditures targeting 16 of 179 legislative candidates totaled \$171,445, or 2 percent of the \$8.2 million raised for all legislative campaigns. However, three candidates received large boosts to their campaigns through independent expenditures in comparison to overall campaign contributions received. Each was unsuccessful.

Further analysis of the independent expenditure reports filed by committees in Colorado reveals:

- Independent expenditure made by two committees — the NRA Political Fund and the Colorado Leadership Fund's Political Fund — totaled \$286,000, accounting for nearly three-fourths of the expenditures.
- Advertising — particularly broadcast media — far and away commanded independent expenditures in Colorado, accounting for 82 percent of the money spent.
- In two cases, independent expenditures made on behalf of a candidate were more than the money raised by the candidates themselves.

TOP SPENDERS

Four entities collectively spent \$340,486 on independent expenditures, accounting for 88 percent of the total spent.

MAJOR SPENDERS IN COLORADO, 2006

SPENDER	TOTAL	PURPOSE
NRA Political Fund	\$143,954	Support Bob Beauprez
Colorado Leadership Fund	\$142,262	Support Republican Candidates
Service Employees International Union	\$29,220	Support Bill Ritter & Others
Chris W. Cox	\$25,050	Support Bob Beauprez
TOTAL	\$340,486	

The National Rifle Association's Political Fund spent \$143,954 to purchase television, radio and print ads for Republican Bob Beauprez' unsuccessful bid for the governor's office. The NRA reported no direct political giving in the 2006 cycle in Colorado.

The Colorado Leadership Fund, which works to "elect Republican candidates including Bob Beauprez,"²⁴ spent \$142,262 on direct mail, phone calls, and television ads for three Republican House candidates who lost their bids for election: John Albright in House District 64; Matt Dunn in House District 38; and Affie Ellis in House District 29. The Colorado Leadership Fund reported no other political giving in Colorado in 2006.

The Service Employees International Union (SEIU) spent \$29,220 on direct mail on behalf of Ritter's successful campaign and various House and Senate candidates not specified by the committee. In addition, the SEIU and state and local affiliates gave \$30,750 directly to Ritter's candidate committee. It also gave \$150,000 in a single direct contribution to the Coloradans for Fairness Issue Committee, a committee supporting Referendum 1, which proposed to allow legal recognition of same-sex couples.²⁵

Chris W. Cox, executive director of the NRA Institute for Legislative Action,²⁶ spent \$25,050 on outdoor advertising supporting Bob Beauprez.

Five individuals made \$34,833, or 9 percent of the independent expenditures. Two individuals combined spent \$32,166 — Chris W. Cox and William L. Armstrong of Cherry Creek Mortgage. Armstrong spent a total of \$7,116 on three Republican candidates: Matt Dunn, in his unsuccessful race for House District 38, Rep. Spencer Swalm in his victorious race for House District 37; and Sen. Ted Harvey, who won the open race for Senate District 30.

PRIMARY TARGETS OF INDEPENDENT EXPENDITURES

As in Maine, the race for the governor's office attracted the most independent expenditures

TOP TARGETS IN COLORADO, 2006

CANDIDATE	OFFICE	SUPPORT	OPPOSE	TOTAL
Bob Beauprez	Governor	\$169,004	\$6,448	\$175,452
Matt Dunn	House District 38	\$89,511	\$0	\$89,511
Bill Ritter*	Governor/Other	\$29,220	\$0	\$29,220
John Albright	House District 64	\$23,594	\$0	\$23,594
Affie Ellis	House District 29	\$21,282	\$0	\$21,282
TOTAL		\$332,611	\$6,448	\$339,059

* The Service Employees International Union made this expenditure on a mailer endorsing Ritter and others

Three entities made a total of \$175,452 of independent expenditures targeting Beauprez, who was defeated by Ritter. The NRA Political Fund paid \$143,954 supporting the Beauprez campaign, while Chris Cox, also of the NRA, spent an additional \$25,050. By comparison, the Brady Campaign to Control Gun Violence spent \$6,448 on direct mails and phone banks in opposition to Beauprez' election. The \$169,004 of independent expenditures made supporting Beauprez was dwarfed by the \$3.7 million raised directly by Beauprez' campaign.

²⁴ "Committee Detail," *Colorado Secretary of State Elections Center* [on-line]; available from <http://www.sos.state.co.us/cpl/CommitteeDetailPage.do.jsessionid=0000G0IQSJRom4qUepSIA5Rpci:121vi2b8g?cold=20065636497>; Internet; accessed July 20, 2007.

²⁵ "Frequently Asked Questions on Referendum 1," *Coloradans for Fairness* [on-line]; available from http://ccfae.convio.net/site/PageServer?pagename=Press_FAQ_Rol_1; Internet; accessed July 26, 2007.

²⁶ National Rifle Association Institute for Legislative Action [on-line]; available from <http://www.nraila.org/About/>; Internet; accessed July 21, 2007.

The Service Employees International Union spent \$29,220 on direct mail on behalf of Ritter and various other state House and Senate candidates. By comparison Ritter raised nearly \$4.4 million in contributions.

Independent expenditures made in support of Republican House candidate Matt Dunn were a significant boost to his campaign. The \$89,511 spent on advertisements and a direct mail were more than twice the \$34,854 raised directly by Dunn's own campaign.

Besides Dunn, two other unsuccessful candidates received significant boosts to their campaigns from independent expenditures. John Albright, a Republican vying for House District 64, raised \$22,165 in campaign contributions, slightly less than the \$23,594 paid out on his behalf in independent expenditures by the Colorado Leadership Fund. A cable TV advertisement paid for by the Colorado Leadership Fund on behalf of Republican House District 29 candidate Affie Ellis totaled \$21,282, slightly more than one-third the \$58,310 his campaign raised.

HOW THE MONEY WAS SPENT

Advertising — particularly broadcast media — far and away commanded independent expenditures in Colorado, accounting for 82 percent of the money spent. Broadcast media alone totaled \$238,396, or 62 percent of the expenditures.

CATEGORIES OF SPENDING IN COLORADO, 2006

CATEGORY	SUB-CATEGORY	AMOUNT
Advertising	Television & Radio	\$238,396
	Internet & Billboard Ads	\$41,112
	Print Ads	\$29,558
	Unspecified	\$5,392
ADVERTISING SUBTOTAL		\$314,457
Message Support	Direc' Mail	\$66,022
	Doorhangers, Buttons, T-Shirts, etc.	\$3,055
MESSAGE SUPPORT SUBTOTAL		\$69,078
TOTAL		\$383,535

Two businesses received three-quarters of the money reported as independent expenditures. Edmonds Associates, a political consulting firm, earned \$161,941 for advertising services ordered by the NRA and Chris Cox to support Bob Beauprez. Another political media consulting firm, Mentzer Media, inc., received \$132,106 from the Colorado Leadership Fund for advertising in support of three Republican candidates for the state House.

MAINE

Eight individuals and 23 groups made roughly \$1.3 million in independent expenditures during Maine's 2006 elections. These expenditures amounted to 15 percent of the nearly \$8.4 million spent directly by the candidates themselves.²⁷

Independent expenditures targeting the two main gubernatorial candidates — Democratic Gov. Baldacci and his Republican challenger, Chandler Woodcock — totaled \$621,118, while those targeting legislative candidates totaled \$625,305. Party committees spent an additional \$6,019 supporting local-level candidates.

Independent expenditures most often paid for message-support activities, such as direct mail and phone banking, which cost a total \$799,244. Advertising, primarily television and radio broadcasting, accounted for most of the other costs — \$460,653.

Independent expenditures made by political action committees and political parties have been on the rise since 2000, due at least in part to the state's public-finance system and relatively low contribution limits.²⁸ The state of Maine fully subsidizes candidates who obtain a number of signatures of registered voters in support of their candidacy and who raise seed money in multiple contributions between \$5 and \$100. Privately financed candidates are subject to contribution limits — legislative candidates can receive no more than \$250 per election from any donor, while gubernatorial candidates can receive no more than \$500.²⁹

Political party committees made 91 percent, or nearly \$1.2 million, of the total made in independent expenditures. This form of spending was an important tool in party committees' election kits because Maine is one of 20 states that limit the amount a party committee can give to a candidate.

However, the reported independent expenditures are just a fraction of the total spent by political action committees and the party committees, according to the state, because of the state's narrow definition of independent expenditures. "For communications to voters that ran more than 21 days before the 2006 general election, the costs were required to be reported as independent expenditures only if the communication explicitly urged the election or defeat of a candidate (e.g., 'Vote Joe Smith on election day!')." ³⁰ So, for example, the Maine Democratic Party paid more than \$1.1 million to Main Street Communications for television ads, yet over \$800,000 worth of those ads was not reported as independent expenditures because they did not expressly advocate for Baldacci.³¹

TOP SPENDERS

Political parties made the vast majority of the independent expenditures. Democratic committees reported spending \$790,626, more than twice the \$371,911 reported by Republican committees.

²⁷ Maine Commission on Governmental Ethics and Election Practices, "2007 Study Report: Has Public Funding Improved Maine Elections?," May 2007, p. 40 & p. 52.

²⁸ *Ibid.*, p. 41.

²⁹ *Ibid.*, p. 11.

³⁰ *Ibid.*, p. 56.

³¹ *Ibid.*, p. 57.

MAJOR SPENDERS IN MAINE, 2006

<u>MAJOR SPENDERS</u>	<u>TOTAL</u>
Maine Democratic Party	\$567,389
Maine Republican Party	\$325,093
House Democratic Campaign Committee	\$147,051
Senate Democratic Campaign Committee	\$70,999
Maine Prosperity PAC	\$65,679
TOTAL	\$1,176,211

Democratic Party Committees

State and local subdivisions of the Democratic Party collectively made \$790,626 of independent expenditures, or 62 percent of the total money spent.

The Maine Democratic Party was the largest spender, with \$567,389. The two Democratic legislative caucuses — the House Democratic Campaign Committee and the Senate Democratic Campaign Committee — spent a total of \$218,050. In addition, two county parties spent \$5,186.

Democratic committees spent the money on over 90 candidates — \$530,770 in support of Democratic candidates and \$259,858 in opposition to their Republican challengers.

Most of the independent expenditures targeted the gubernatorial candidates — \$272,442 made in support of the winner, Baldacci, who did not receive public funding,³² and \$252,283 spent in opposition to Woodecock, who did receive public funding.³³ An additional \$55,545 was spent supporting Brian Rines, a publicly financed Democratic candidate for state Senate who lost in the general election, and was also publicly financed.³⁴

The bulk of the Democratic committees' expenditures went towards television and radio advertising, which cost \$387,665, while direct mail commanded \$198,408. An additional \$186,322 paid for campaign literature and phone banking.

Republican Party Committees

State and local subdivisions of the Republican Party spent \$371,911 on independent expenditures, or 29 percent of the total money spent.

The Maine Republican Party made the bulk of those expenditures; their total was \$325,093, or 87 percent of the Republican spending. The two Republican legislative caucuses — the Maine Senate Republican Victory Fund and the House Republican Fund — made just \$46,298 in independent expenditures, about one-fifth of the money spent by their Democratic counterparts.

Republican Party committees targeted over 90 candidates — \$329,406 in support of Republican candidates and \$29,314 in opposition to their Democratic challengers.

³² "Candidate List," *Maine Commission on Governmental Ethics and Election Practices* (on-line); available from http://www.maine-campaign-finance.com/public/candidate_office_sought_list.asp?Type=CAN&YEAR=2006; Internet; accessed July 24, 2007.

³³ *Ibid.*

³⁴ *Ibid.*

The Republican committees spent more money on the gubernatorial race than any other, spending \$65,150 in support of Woodcock and \$29,314 opposing Gov. Baldacci. The three legislative candidates most heavily targeted were:

- Republican Sen. Paula Benoit, who successfully challenged then-incumbent Democratic Sen. Arthur Mayo in District 19, with \$17,453;
- Republican Frank Farrington in his unsuccessful challenge for Senate District 32, with \$17,015;
- Republican state Rep. Kevin Glynn, who lost his bid for House District 27, with \$16,065.

Independent expenditures exceeded the total both Benoit and Glynn, who were both publicly financed, received in public money: \$10,651 for Benoit and \$22,008 for Glynn. Farrington raised \$33,495 in private contributions.

Unlike Democratic committees, Republican committees spent little on broadcast media, focusing instead on direct mail expenses, which totaled \$292,979. Advertising expenses totaled \$44,020 — \$42,195 on print ads and \$1,825 on radio advertising. An additional \$34,912 was spent on phone banking.

Others

In addition to the political parties, the Maine Prosperity PAC, a committee of the pro-business organization Alliance for Maine's Future,¹⁵ spent \$65,679 in support of 40 candidates. Paula Benoit's race benefited the most, with \$5,160 in spending. The committee also spent money on three other Republican candidates: \$4,734 on Steve Bowen's unsuccessful race in House District 46; \$3,861 on Rep. Donna Finley's successful race House District 85; and \$3,805 on Lyle Cramer's narrowly lost bid for House District 125.

The Maine Prosperity PAC spent most of its money, \$29,468, on direct mail, but also spent \$18,837 on print ads and \$16,127 on phone banking. This PAC is a committee of the Alliance for Maine's Future, a pro-business organization.¹⁶

PRIMARY TARGETS OF INDEPENDENT EXPENDITURES

Independent expenditures targeting the two main gubernatorial candidates — Baldacci and Woodcock — totaled \$621,118, nearly a quarter of the \$2.6 million these two candidates spent on their own campaigns.¹⁷

Gov. Baldacci and his opponent, Chandler Woodcock, both raised \$1.3 million in contributions.¹⁸ They each also had more than \$300,000 of independent expenditures that targeted them. The stark

¹⁵ Alliance for Maine's Future [on-line]; available from <http://www.allianceformaine.org/page.asp?content=AMFPac&g=AMFVOTE>, Internet; accessed July 18, 2007.

¹⁶ AMF PAC, "Alliance For Maine [on-line]; available from <http://www.allianceformaine.org/page.asp?content=AMFPac&g=AMFVOTE>; Internet; accessed Aug. 1, 2007.

¹⁷ Maine Commission on Governmental Ethics and Election Practices, "2007 Study Report: Has Public Funding Improved Maine Elections?," May 2007, page 52.

difference between the two is that expenditures targeting Baldacci were made primarily in support of his campaign, while those targeting Woodcock were made primarily in opposition.

TOP TARGETS IN MAINE, 2006

TARGET	OFFICE	SUPPORT	OPPOSE	TOTAL
Chandler Woodcock	Governor	\$66,963	\$252,283	\$319,246
John Baldacci	Governor	\$272,558	\$29,314	\$301,872
Brian Rines	Senate	\$57,282	\$0	\$57,282
TOTAL		\$396,803	\$281,597	\$678,400

Independent expenditures targeting legislative candidates totaled \$625,305, just 19 percent of the \$3.7 million spent by the candidates themselves.³⁹ The race for Senate District 21 attracted the most independent expenditures, \$70,575. Brian Rines, an unsuccessful Democratic candidate for the open seat in Senate District 21, attracted \$57,282 in independent expenditures, 47 percent more than the \$38,895 he received in public financing.⁴⁰ To counter the Democrats, Republican parties spent \$13,293 supporting Earle McCormick, Rines' opponent and ultimate victor. McCormick, who was also publicly financed, received \$62,278 in public funds.

HOW THE MONEY WAS SPENT

Of the nearly \$1.3 million of independent expenditures made in Maine, \$799,244 was spent on direct mail, phone banks, campaign materials and consultants. Advertising accounted for \$460,653 of the expenditures, with television and radio advertising taking the bulk of that money.

CATEGORIES OF SPENDING IN MAINE, 2006

CATEGORY	SUB-CATEGORY	AMOUNT
Message Support	Direct Mail	\$550,403
	Phone banks, Campaign Materials,	\$241,512
	Consultants	\$7,329
	MESSAGE SUPPORT SUBTOTAL	\$799,244
Advertising	Broadcast Media	\$392,442
	Print Media	\$66,829
	Other Media	\$1,382
ADVERTISING SUBTOTAL		\$460,653
Administration	Salaries/Wages	\$8,775
	Travel	\$633
ADMINISTRATION SUBTOTAL		\$9,408
TOTAL		\$1,269,305

³⁹ Maine Secretary of State Department of Governmental Ethics and Election Practices [on-line]; available from <http://www.mainecampaignfinance.com/MainePublic/CFReports/CAN/CFReports/ScheduleFReports/55107.htm>; Internet, accessed July 24, 2007.

³⁹ Maine Commission on Governmental Ethics and Election Practices: "2007 Study Report: Has Public Funding Improved Maine Elections?," p. 40.

⁴⁰ "42-Day Post-General 2006 Campaign Schedule F Summary Section," *Maine Campaign Finance* [on-line]; available from <http://www.mainecampaignfinance.com/MainePublic/CFReports/CAN/CFReports/ScheduleFReports/52766.htm>; Internet, accessed July 27, 2006.

Three companies together received almost half of the money spent on independent expenditures. Main Street Communications, a political consulting firm in Washington, D.C., was paid \$339,545 by the Democratic Party for television advertising in support of Gov. Baldacci and opposing Woodcock. The Creative Imaging Group, a promotional products and commercial printing business in Scarborough, Maine, was paid \$173,737 for direct mail services from the Maine Prosperity PAC and the Maine Republican Party. The Strategy Group, a political consulting firm with offices in Washington, DC, Chicago and Los Angeles, was paid a total of \$110,942 for literature and direct mail services by the Democratic Party supporting Baldacci and opposing Woodcock.

WASHINGTON

Seven individuals and 66 committees made nearly \$6.4 million in independent expenditures during Washington's 2006 elections. Legislative candidates were the target of 48 percent of the expenditures, while Supreme Court candidates were the target of 43 percent. Less than 1 percent was spent on ballot measures.

The \$2.7 million in independent expenditures targeting the three Supreme Court races was 36 percent greater than the \$1.7 million raised directly by the six candidates.

Two Supreme Court candidates, in particular, received significant boosts from independent expenditures. John Groen raised \$454,033 for his unsuccessful campaign to unseat Justice Gerry Alexander on the Supreme Court, just one-third of the \$1.4 million total made in independent expenditures supporting Groen and opposing Alexander. Stephen Johnson raised \$343,260 in his unsuccessful effort to unseat Justice Susan Owens; his campaign kitty totaled 60 percent of the \$571,150 spent on independent expenditures supporting Johnson and opposing Owens.

Ten committees were responsible for making 74 percent of all independent expenditures. More than half of all expenditures — nearly \$3.4 million — paid for direct mailings, while more than one-quarter paid for radio and television advertisements.

Independent expenditures are another vehicle available to special interests to influence the outcome of elections in the state of Washington, which has relatively strict contribution limits. Political action committees (PACs), unions, corporations and individuals can give a maximum of \$700 to legislative candidates and \$1,400 to judicial candidates per election.⁴¹ Candidate committees are prohibited from giving to fellow judicial and legislative candidates. Further, legislative candidates can only receive \$0.70 per registered voter from state and caucus committees and \$0.35 per registered voter from county and legislative district party committees.

Accusations of financial shell games were lodged against several independent expenditure committees for having "shell PACs to conceal donors names and avoid having to list them on ads." For example, It's Time For A Change PAC was largely funded by the ChangePAC, which in turn received most of its funding from the Building Industry Association of Washington (BIAW).⁴² In response to the accusations, Tom McCabe of the BIAW claims that since state law requires them to list their donors in their commercials, "it is easier to list one donor on 30-second ads than to spend 13 seconds listing five donors."⁴³

TOP SPENDERS

The 10 committees responsible for making 74 percent of all independent expenditures were varied.

Three groups that focused mostly on Supreme Court races — Citizens to Uphold the Constitution, It's Time For A Change, and Americans Tired of Lawsuit Abuse — spent nearly \$2.3 million.

⁴¹ Primary and general elections are considered separate elections.

⁴² Brad Shannon, "State to Look at Five PACs in Court Races," *The News Tribune*, Sept. 26, 2006 [newspaper on-line], available from <http://dwb.thenewstribune.com/news/local/story/6097252p-5344131c.html>; Internet, accessed July 25, 2007.

⁴³ Brad Shannon, "State to Look at Five PACs in Court Races," *The News Tribune*, Sept. 26, 2006 [newspaper on-line], available from <http://dwb.thenewstribune.com/news/local/story/6097252p-5344131c.html>; Internet, accessed July 25, 2007.

representing more than one-third of all independent expenditures made in Washington in 2006. These groups, not the candidate campaign committees, paid for all of the television advertising related to the Supreme Court elections.⁴⁴

MAJOR SPENDERS IN WASHINGTON, 2006

MAJOR SPENDERS	TOTAL
It's Time For A Change	\$1,255,360
Citizens to Uphold The Constitution/FairPAC	\$646,768
Roosevelt Fund	\$596,281
Realtors Quality of Life PAC	\$408,028
Building Industry Association of Washington/BIAW	\$369,830
Harry Truman Fund	\$364,437
Americans Tired of Lawsuit Abuse	\$357,500
Citizens Action Group	\$312,170
Working Families Who Have Had Enough	\$208,555
Affordable Healthcare Coalition	\$191,769
TOTAL	\$4,710,698

Builders and Realtors

The Building Industry Association of Washington (BIAW), which seeks to limit regulation of the building industry and accuses the current court of "rewriting history and eviscerating property rights,"⁴⁵ was the largest spender, focusing primarily on Supreme Court races.

It's Time For A Change spent more than \$1 million, or 84 percent of its total, on Supreme Court races. In addition, the BIAW itself spent \$347,630, or 94 percent of its expenditures on Supreme Court races. In all, the two committees made \$1.6 million in independent expenditures, with \$1.4 million spent on the Supreme Court races. Neither of the committees made direct contributions to any of the Supreme Court candidates.

It's Time For A Change was bankrolled by the ChangePAC, which received \$750,000 from the BIAW, \$90,000⁴⁶ from BIAW's PAC, the Washington Affordable Housing Council,⁴⁷ and \$120,000 from Bruce McCaw, a Bellevue developer.⁴⁸

⁴⁴ James Sample, "Special Interest Groups Dominate Washington Supreme Court Television Advertising," *Justice at Stake Campaign*, Sept. 20, 2006 [on-line]; available from <http://www.justiceatstake.org/contentViewer.asp?breadcrumb=7,55,892>; Internet; accessed July 24, 2007.

⁴⁵ Richard Roesler, "High Court Races Get Dirty; 'Activist' Tag Applied To Opponents," *Spokesman Review*, Sept. 3, 2006 [newspaper on-line]; available from http://www.spokesmanreview.com/tools/story_pf.asp?ID=147958; Internet; accessed July 24, 2007.

⁴⁶ "Public Resources," *Public Disclosure Commission* [on-line]; available from <http://web.pdc.wa.gov/servlet/ContServlet>; Internet; accessed July 24, 2007.

⁴⁷ "BIAW Political Program," *Building Industry Association of Washington* [on-line]; available from <http://www.biaw.com/DesktopDefault.aspx?tabindex=3&tabid=108&navid=1>; Internet; accessed July 25, 2007.

⁴⁸ Brad Shannon, "State to Look at Five PACs in Court Races," *The News Tribune*, Sept. 26, 2006 [newspaper on-line]; available from <http://dwb.thenewstribune.com/news/local/story/6097252p-5344131c.html>; Internet; accessed July 25, 2007.

The Realtors Quality of Life PAC, funded entirely by the Washington Association of Realtors, spent over \$400,000 supporting mostly state House and Senate candidates. The PAC spent \$183,615 supporting Republican candidates and \$182,828 supporting Democratic candidates.

Legal Groups

The Washington chapter of Americans Tired of Lawsuit Abuse spent \$357,500 on Supreme Court races. In addition, the Justice for Washington committee, an offshoot of Americans Tired of Lawsuit Abuse,⁴⁹ spent \$112,534. Justice for Washington received its funding from two committees — the Citizens to End Lawsuit Abuse and the Constitutional Law PAC.

Citizens to Uphold the Constitution, "a coalition of trial lawyers and labor, environmental, and tribal groups,"⁵⁰ was active in all three Supreme Court races, spending a total of \$646,768 in support of all three incumbents' successful bids for re-election, and in opposition to their challengers. Three donors alone provided half of the committee's funds used to make these expenditures, each giving \$100,000: the Puyallup Tribe of Indians, the Tulalip Tribes of Washington and the Washington State Council of Service Employees.⁵¹

Partisan Groups

Three partisan political action committees made over \$1.5 million in independent expenditures in the state, 86 percent of which were spent on direct mail.

The Harry Truman Fund, a PAC that supports Democratic state House candidates, made more than \$360,000 in independent expenditures. In addition, the committee gave over \$335,140 in direct contributions to candidates as well as party committees.

The Roosevelt Fund, a PAC that supports Democratic state Senate candidates, targeted several races, spending most of its nearly \$600,000 on direct mail. The Roosevelt Fund also contributed over \$130,000 directly to the state Democratic Party and \$28,000 to Senate candidates, giving the \$1,400 maximum to 18 of them.

To fund these expenses, the Roosevelt Fund and the Harry Truman Fund raised money from similar sources. Labor groups contributed over \$600,000 combined and the Democratic Legislative Campaign Committee, a national committee that supports state-level Democratic legislative candidates, gave each committee \$200,000.⁵²

⁴⁹ "Capitol Chat transcript: State Supreme Court candidates Susan Owens and Stephen Johnson," *The Olympian*, Oct. 28, 2006 (newspaper on-line); available from <http://www.theolympian.com/capitolchat/story/47819.html>; Internet; accessed July 24, 2007.

⁵⁰ Brad Shannon, "State to Look at Five PACs in Court Races," *The News Tribune* (on-line), Sep. 26, 2006, available from <http://dwb.thenewtribune.com/news/local/story/6097252p-5344131c.html>; Internet; accessed July 25, 2007.

⁵¹ "Public Resources," *Public Disclosure Commission* (on-line); available from <http://web.pdc.wa.gov/servlet/ContServlet>; Internet; accessed July 24, 2007.

⁵² "Public Resources," *Public Disclosure Commission* (on-line); available from <http://web.pdc.wa.gov/servlet/ContServlet>; Internet; accessed July 24, 2007.

A Republican PAC, the Citizens Action Group, spent \$312,170 in independent expenditures, almost entirely on legislative races. The Citizens Action Group was funded by two state-based committees, the Speakers Roundtable and the Leadership Council.⁵³

Labor

The Washington Education Association PAC spent over \$140,000 supporting three winning Democratic Senate candidates — Derek Kilmer, Claudia Kauffman, and Eric Oemig.

To pay for these expenses, the Washington Education Association PAC raised 60 percent of its funds from the association itself, while most of the remaining funds came from unitemized contributions. Unitemized contributions are those under the state's \$25 reporting threshold for reporting identifying information such as the contributor's name and address.

Two SEIU unions made independent expenditures targeting Supreme Court and legislative campaigns. SEIU Local 775 spent \$89,178 targeting legislative races, while the SEIU Washington Political Action Fund spent \$27,159.

The Affordable Healthcare Coalition made \$191,769 in independent expenditures, primarily in support of Democratic legislative candidates and in opposition to Republican candidates. To fund the expenses, the Coalition raised money primarily from the SEIU Washington State Council and three SEIU locals — 775, 1199, and 925.

PRIMARY TARGETS OF INDEPENDENT EXPENDITURES

In all, nearly \$3.1 million in independent expenditures was spent on candidates running for the state legislature, while over \$2.7 million in independent expenditures was spent on state Supreme Court races. Less than 1 percent was spent on ballot measures.

Because of the type of reports filed, many of the targets of the independent expenditures could not be classified since a number of committees listed multiple targets without differentiating the specific dollars spent on each of the targets.

The Supremes

Independent expenditures targeting the three Supreme Court races totaled over \$2.7 million, 93 percent of which targeted the candidates running in Districts 2 and 8. In District 2, incumbent Justice Susan Owens defeated challenger Stephen Johnson. District 8 saw incumbent Justice Gerry Alexander defeat challenger John Groen in the primary election, and run uncontested in the general election. Alexander was the focus of an onslaught of negative advertising, with 92 percent of the \$535,700 of independent expenses directed at Alexander were made in opposition to him.

⁵³ "Public Resources," *Public Disclosure Commission* [on-line]; available from <http://web.pdc.wa.gov/servlet/ContServlet>; Internet; accessed July 24, 2007.

TOP TARGETS IN WASHINGTON, 2006

TARGET	OFFICE	FOR	AGAINST	TOTAL
Groen, John M.	Supreme Court	\$861,686	\$299,479	\$1,161,165
Johnson, Stephen L.	Supreme Court	\$447,233	\$119,549	\$566,782
Alexander, Gerry L.	Supreme Court	\$41,018	\$494,680	\$535,698
Owens, Susan	Supreme Court	\$156,171	\$123,916	\$280,087
Sheldon, Timothy M.	Senate	\$79,495	\$182,625	\$262,121
Esser, Luke E.	Senate	\$116,986	\$127,714	\$244,700
Nixon, Toby	Senate	\$55,963	\$140,502	\$196,465
Kilmer, Derek C.	Senate	\$94,636	\$76,792	\$171,428
Olson, Bret A.	House	\$123,060	\$6,329	\$129,389
Schmidt, David A.	Senate	\$38,294	\$72,968	\$111,262
		\$2,014,542	\$1,644,554	\$3,659,096

Challengers Groen and Johnson were "conservative property rights candidates" supported by conservative legal and business interests. Incumbent Justices Owens and Alexander, on the other hand, had the backing of Gov. Chris Gregoire and "liberal leaning unions, lawyers, and the abortion-rights group NARAL."⁵⁴ The Legacy Fund, a PAC Gregoire controls,⁵⁵ contributed \$15,000 directly to the Citizens to Uphold the Constitution.

The third Supreme Court race, one that pitted incumbent Justice Tom Chambers against Jeannette Burrage, garnered slightly more than \$181,000 in independent expenditures. This race was targeted by those upset with Chambers for siding with proponents of gay marriage.⁵⁶ Two committees — Citizens for Judicial Integrity and Citizens to Uphold the Constitution, formerly known as FairPAC — spent \$164,658 opposing Chambers, which accounted for 91 percent of the expenditures made in this race. Despite the money spent in opposition to him, Chambers easily defeated Burrage in the primary election with nearly 60 percent of the vote.

The Body Legislative

Senate candidates were the targets of over \$1.7 million in independent expenditures, 95 percent of which targeted just seven of the 25 Senate races in 2006.

The top target among Senate candidates was incumbent Democratic Sen. Timothy Sheldon. Working Families Who Have Had Enough PAC spent almost \$160,000 in independent expenditures unsuccessfully opposing Sheldon's re-election bid for District 35, and over \$48,000 supporting his primary opponent, Kyle Lucas. To help fund their expenditures, the committee

⁵⁴ Brad Shannon, "State to Look at Five PACs in Court Races," *The News Tribune*, Sept. 26, 2006 [newspaper on-line]; available from <http://dwb.thenewtribune.com/news/local/story/6097252p-5344131c.html>; Internet; accessed July 25, 2007.

⁵⁵ Ralph Thomas, "Gregoire's Prowess at Filling Coffers Continues," *The Seattle Times*, Aug. 11, 2006 [newspaper on-line]; available from <http://archives.seattletimes.nwsource.com/cgi-bin/lexis.cgi/web/vortex/display?slug=gregoire11m&date=20060811&query=st>; Internet; accessed July 31, 2007.

⁵⁶ Richard Roesler, "High Court Races Get Dirty; 'Activist' Tag Applied To Opponents," *Spokesman Review*, Sept. 3, 2006 [newspaper on-line]; available from <http://www.spokesmanreview.com/tools/story.pl.asp?ID=147958>; Internet; accessed July 24, 2007.

received half of its funds, \$100,000, from the Progressive Majority, a political action committee "dedicated exclusively to electing progressive champions at the state and local level."⁵⁷

Kyle Lucas's unsuccessful campaign to unseat Sen. Timothy Sheldon in District 35 raised \$69,105, a drop in the bucket compared to the more than \$200,000 committees made in independent expenditures opposing Sheldon.

Republican incumbent Sen. Luke Esser was the target of \$244,700 of the \$330,046 in independent expenditures spent on the District 48 race. Esser was defeated by then-House Rep. Rodney Tom, a former Republican turned Democrat,⁵⁸ who was the target of \$85,736 worth of independent expenditures, 55 percent in support. It's Time For A Change spent almost \$52,000 in support of Esser and \$38,186 in opposition to Tom. The Roosevelt Fund spent \$111,299 opposing Esser. Tom was on the receiving end of \$26,681 in expenditures from the Education Voters Political Action Fund, a public school advocate that is an arm of the League of Education Voters.⁵⁹

House candidates were targeted with \$1.3 million in independent expenditures. Independent expenditures in support of candidates dominated giving, accounting for over \$1.1 million or 84 percent of the total. Eleven races garnered over \$50,000 each in spending, accounting for \$976,737 or 73 percent of expenditures to House candidates.

HOW THE MONEY WAS SPENT

More than half of all independent expenditures in Washington — nearly \$3.4 million — were spent on direct mail, while 28 percent paid for radio and television buys. Expenditure to get-out-the-vote accounted for more than \$700,000.

CATEGORIES OF SPENDING IN WASHINGTON, 2006

CATEGORY	SUB-CATEGORY	AMOUNT
Message Support	Direct Mail	\$3,356,400
	Get-Out-the-Vote	\$702,780
	Consultants	\$38,047
	Other Campaign Support	\$18,421
	Salaries/Wages	\$19,036
MESSAGE SUPPORT TOTAL		\$4,134,684
Advertising	Broadcast Media	\$1,800,680
	Print Media	\$262,701
	Other Media	\$186,285
ADVERTISING TOTAL		\$2,249,666
TOTAL		\$6,384,350

Seattle communications company Moxie Media was paid over \$450,000 for production, design and

⁵⁷ "Who We Are," *Progressive Majority* [on-line], available from <http://www.progressivemajority.org/whoweare/>; Internet; accessed July 31, 2007.

⁵⁸ Alex Fryer, "State Sen. Rodney Tom Enters Congressional Race," *The Seattle Association*, July 17, 2007 [newspaper on-line]; available from http://seattletimes.nwsource.com/html/localnews/2003793099_webtom17m.html; Internet; accessed July 24, 2007.

⁵⁹ "About League of Education Voters," *League of Women Voters* [on-line]; available from <http://www.educationvoters.org/about.htm>; Internet; accessed June 28, 2007.

media buys for Citizens to Uphold the Constitution, Democratic candidates and several committees representing Democratic causes. On the Republican side, Dresner, Wickers & Associates, a political consulting firm located in San Francisco, received nearly \$800,000 from It's Time For A Change, paying mostly for direct mail production and media placement.

Attachment D

National Conference of State Legislatures
"Do Campaign Finance Laws Make a Difference?"
Available at <http://www.ncsl.org/programs/pubs/900cam.htm>



State Legislatures Magazine: September 2000

Editor's Note: This article appeared in the September 2000 issue of NCSL's magazine, *State Legislatures*. To order copies or to subscribe, contact the marketing department at (303) 364-7700.

Do Campaign Finance Laws Make a Difference?

So Do Limits Work?
Getting the Information Out
Public Election Financing

Do Campaign Finance Laws Make a Difference?

States' experiments with campaign finance reform do affect elections, although no one seems to agree on how much and whether the effects are positive.

By Jennifer Drage

The role of money in politics is always controversial, but lately the debate has been hotter than ever. Over the past decade, states have experimented extensively with reforming the laws that govern the role of money in campaigns. Contribution limits, electronic filing and disclosure, and public financing all have been touted as cures for what their proponents believe ails the American electoral system: a lack of competition in many races, the voters' disgust with high-spending, negative campaigns, the fear of corruption that lurks in the public's mind when candidates rely on large contributions from a few individuals or from large corporations, and the apathy and cynicism that seem to result from all of this. Are any of these reforms working as they are intended to? Have they increased competition, reinvigorated the public's interest and faith in government, and removed the threat of corruption? In other words, to what extent have campaign finance laws really affected state elections?

In the mid-1990s, low contribution limits were all the rage. Between 1994 and 1996, a number of states, including Arkansas, California, Colorado, Missouri, Montana and Oregon, passed laws via the citizen initiative that set low limits on the amounts that could be contributed to candidates. Because most of these laws failed to withstand judicial scrutiny, they never had the chance to affect elections.

The limits in Arkansas, California and Oregon never went into effect during an election before they were tossed out by the courts. Colorado's limits, passed by Amendment 15 in 1996, stayed in effect long enough to be tested through the 1998 elections (although they've since been invalidated by a federal court and replaced by the legislature with more generous amounts). Montana's, while currently under challenge, were in effect for both the 1996 and 1998 elections. An appeal of California's limits is currently pending, but a decision isn't likely to come in time to affect the 2000 elections. Missouri's limits, ranging from \$250 to \$1,000 per election plus adjustments for inflation, were passed in 1994 and immediately challenged. The case is finally coming to a close, however, thanks to a U.S. Supreme Court ruling in January 2000 that upheld most of the limits. Litigation is still pending on limiting contributions to candidates by corporations, but most other contributions are limited for the 2000 elections.

SO DO LIMITS WORK?

So do contribution limits have an effect on statewide and legislative races? Pete Maysmith, program director of Colorado Common Cause, says they did in Colorado in 1998. Common Cause and the League of Women Voters, as the sponsors of Amendment 15, firmly believe that strong campaign finance reform is necessary to help restore citizen confidence in the electoral system because massive, unregulated contributions have the potential to corrupt. And "potential" is an important word here. Even if actual corruption never takes place, they say, the perception among citizens is that candidates and lawmakers are beholden to their large contributors. The appearance of corruption is just as dangerous to the integrity of our electoral system as actual corruption. Common Cause contends:

Colorado's Amendment 15 established contribution limits ranging from \$100 per primary or general election for individual contributions to a legislative candidate to \$500 per primary or general election to gubernatorial candidate (amounts doubled if a candidate was in a contested primary). Maysmith says these limits worked in the 1998 elections because they stopped large contributions and involved more people in politics as candidates were forced to reach out to a broader group of supporters.

Colorado House Speaker Russell George agrees that Amendment 15's limits had an effect on Colorado state races in 1998, but maybe not the one its proponents were hoping for. He says Amendment 15 violated a cardinal rule of campaigning: A candidate must always be in charge of his own campaign and his own message. Amendment 15 failed to recognize a basic reality of the electoral process: If you squeeze money out of one arena, it will ooze into another. In Colorado, George says, Amendment 15 squeezed money out of candidates' hands and into the hands of so-called educational groups such as Shape the Debate, Centennial Spirit and Invest in Our Families with narrow agendas and obscure memberships. That meant candidates didn't have the money to get their message out, and left these special interest groups speaking on behalf of candidates.

Speaker George sponsored legislation passed in 2000 that sets higher limits on contributions in Colorado. Setting some sort of limits, he says, was necessary, not only because federal court rulings had left Colorado without limits and left candidates confused about the law, but also because state voters clearly supported limits when they passed Amendment 15 in 1996. The new limits range from \$1,000 per election for contributions to a House candidate up to \$5,000 per election to a gubernatorial candidate. George believes these new limits are more reasonable than the ones in Amendment 15.

"Amendment 15 was bad public policy. It drove politicians to say, 'I need your money, so what is it going to take to get it?' instead of saying, 'My money is easily gotten over here, so now let's sit down and talk about the issues,'" George says.

California voters passed Proposition 208 in 1996, a measure similar to Colorado's Amendment 15. Prop. 208 set limits of \$250 per primary or general election for a legislative candidate and \$500 for a statewide candidate. Those limits double if a candidate agrees to abide by voluntary spending limits that range from \$150,000 for a candidate for the Assembly to \$14 million for a gubernatorial candidate (\$6 million in the primary and \$8 million in the general). Unlike Colorado, California has never gone through an election under low contribution limits. Prop. 208 was enjoined in January 1998 by a U.S. district court judge, and the case is still pending.

On July 7, the California Legislature passed a campaign finance reform bill establishing contribution limits ranging from \$3,000 to \$25,000 for various candidates and voluntary spending limits as high as \$16 million. The measure will appear on the November 2000 ballot. If passed by voters, the limits will take effect in January 2001 for legislative candidates and after the November 2002 election for gubernatorial candidates.

In the meantime, California candidates are not subject to any contribution or spending limits. In the 1998 elections, the two major candidates for governor spent a combined total of more than \$52 million in the general election. Under the voluntary spending limits of Prop. 208, they would have been limited to \$8 million each. The 191

candidates for the Legislature spent more than \$56 million in the general election. Under the voluntary limits of Prop. 208, their spending would have been limited to a total of \$45.8 million. Supporters of contribution limits question whether candidates who are neither independently wealthy nor politically connected can raise the kind of money they need to be competitive in California elections. Those who do not favor contribution limits counter with the question, Is access to cash really what makes a candidate competitive?

GETTING THE INFORMATION OUT

Some would argue that speedy, accurate disclosure of campaign contributions and expenditures is the answer. The California Voter Foundation, a nonprofit organization dedicated to advancing new technologies to improve democracy, monitors and evaluates state electronic campaign finance reporting and disclosure efforts. In 1999, the foundation awarded the Digital Sunlight Award to California, Hawaii, Illinois, Louisiana, Michigan, New York and Virginia, citing electronic filing programs and convenient and user-friendly access to campaign finance information. Kim Alexander, foundation president and founder, says that 35 states currently offer campaign finance information on the Internet. "The reason why it's happening," she says, "is because politicians do want to do something about the problem of money. There's genuine dissent about how to deal with special interest money in politics, but people agree that one thing we can do is provide voters with access to information."

Alexander admits that these Web sites appeal to a limited audience. The average voter is not very interested in looking at original campaign finance disclosure reports, and the data can be confusing. However, many of the states awarded the Digital Sunlight Award not only provide access to a database of information, they also provide summaries and analyses of contributions and expenditures. This helps voters condense a vast amount of complex financial information into the facts they need to evaluate the candidates. In states like California, Illinois and Virginia, where there are no limits on how much may be given to candidates, that information can be especially important.

Electronic filing has other advantages. It's inexpensive—once the software has been developed—and it's accurate. States don't have to go through a time-consuming, error-prone and expensive data entry process. Detailed, accurate and speedy disclosure can also help people understand why campaigns cost so much. Alexander points out, "If we understand why it costs a candidate so much to get a message out, we can go on to look for ways to either reduce those costs or look for other ways to finance them. Perhaps that kind of understanding could also, at a minimum, help alleviate people's cynicism about the amount of money in politics."

PUBLIC ELECTION FINANCING

The newest idea in campaign finance reform is "Clean Elections" public financing. The idea of using public money to finance candidate campaigns isn't new more than one-third of the states operate some sort of public financing program. But the clean elections variation allows candidates to finance their campaigns almost entirely with public funds. Once a candidate qualifies by collecting a specified number of small contributions (often as low as \$5), he or she agrees not to collect any more contributions from private sources. Instead, the candidate receives a grant from the state to finance his or her campaign. The public money comes from a variety of sources, including income tax checkoffs and add-ons, appropriations, lobbyist fees, and surcharges on civil and criminal fines. Public Campaign, a national group that promotes clean elections public financing, says that funding elections with public money solves several problems: It removes special interest money from campaigns, frees candidates from time-consuming fundraising, reins in expensive campaigns with spending limits and provides an equal financial base for all candidates.

Maine was the first state to pass clean elections, via a citizen initiative in 1996. The Vermont legislature passed a similar measure in 1997. Arizona and Massachusetts voters approved initiatives in 1998. The Massachusetts law won't go into effect until 2002, but Arizona, Maine and Vermont are using their clean elections systems for the first time this year.

Arizona and Maine don't have gubernatorial elections this year, but public funding is available to legislative candidates. In Arizona, 27 have applied for public funding, and nine have received funds. In Maine, there were 389 legislative candidates going into the primaries; 119 qualified for and received public funds. Republicans and Democrats are taking advantage of Maine's public financing in equal numbers. A candidate in a contested Senate primary received about \$4,300, a contested House primary candidate got about \$1,100. Amounts for uncontested primaries were about \$1,800 and \$500 respectively. At press time, it was unknown how many of the 119 candidates who received public funds won their primaries. In most primaries, however, either both candidates used public funds, or neither did. Therefore, it's not likely that the public funding will have much effect, if any, in the primaries. Clean elections participants who won their primaries will receive public funds for the general election as well—almost \$13,000 for Senate and about \$3,500 for House candidates. Minor parties also may be getting a leg up thanks to public funding. Two minor party candidates have been certified to receive public funds in the general election in Maine, and a third may qualify soon.

Senator John Nutting is running for reelection in Maine and using the clean elections public financing. "I'm just pleased to be able to run for office without asking for any money from those I'm then going to be voting to regulate," Nutting said. He also points out the time-saving factor. Besides running a campaign and taking 20 to 30 constituent calls a day, he's a dairy farmer. Using the clean elections fund frees up the countless hours he used to have to spend fundraising.

In Vermont, public funding is available only to candidates for governor and lieutenant governor. Three candidates have qualified for public funds this year: Anthony Pollina, running for governor on the Progressive Party ticket, incumbent Democratic governor Howard Dean, and incumbent Democratic lieutenant governor Douglas A. Racine. The two gubernatorial candidates will receive primary election grants for \$75,000, minus the contributions they raised to qualify, and \$225,000 for the general election. Racine will receive \$25,000 (minus qualifying contributions) for the primary and \$75,000 for the general election.

Nick Nyhart, the executive director of Public Campaign, says, "The fact that Anthony Pollina has reached the threshold required to qualify as a clean money candidate for governor of Vermont is a milestone for the movement for comprehensive campaign finance reform."

It's clear that states' experiments with campaign finance reform do affect elections, although everyone seems to disagree on how much and whether the effects are desirable or not. Most folks, regardless of their political affiliations, seem to agree that getting campaign finance information to voters in a timely and accurate manner is important. Electronic disclosure, therefore, is one of the most common and least controversial reforms states have tried. Low contribution limits, in most states, never got the chance to affect elections. In the states where they did, like Colorado, opinions are divided. Some say that the limits made elections less corruptible by big money, others say it just pushed the big money into a new arena, one more difficult to regulate. And "clean elections" public financing is simply an idea too new for us to draw any conclusions about how it might reshape state elections. It appears, in Maine at least, to be popular and widely used among candidates.

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Washington Office: Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001

Attachment E

Brennan Center for Justice, at the NYU School of Law
Testimony by Ciara Torres-Spelliscy to the Illinois General Assembly
March 27, 2007

BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
212.998.6730 Fax 212.995.4550
www.brennancenter.org

Elections & Campaign Reform Committee
Illinois General Assembly

Statement of

Ciara Torres-Spelliscy
Counsel, Brennan Center for Justice at NYU School of Law

March 27, 2007

The Brennan Center for Justice thanks the Committee for holding this hearing. The Brennan Center is a nonpartisan think tank and legal advocacy organization that focuses on democracy and justice. Our remarks here focus briefly on some of the constitutional issues related to campaign finance regulation, especially contribution limits. For a more detailed analysis, we refer you to our 200-page treatise, *Writing Reform: A Guide to Drafting State & Local Campaign Finance Laws*, which you may download chapter-by-chapter at http://www.brennancenter.org/subpage.asp?key=38&tier3_key=10340. For specific questions, please feel free to contact Ciara Torres-Spelliscy at 212-998-6025 or ciara.torres-spelliscy@nyu.edu.

Contributions Limits Promote Accountability and Public Trust

Contribution limits promote accountability. Limits on the size of contributions to candidates encourage candidates to reach out to a broad base of supporters, including moderate-income constituents. A candidate who needs widespread support from ordinary people is more likely to respond to their needs. Contribution limits also promote public confidence that elected representatives will be accountable to voters rather than wealthy donors.

Reasonable Contribution Limits Are Constitutional

Federal law limits the amount that individuals, political action committees ("PACs"), and political parties may contribute to federal candidates, PACs, and political parties. Federal law also limits the aggregate amount of contributions that an individual may make in a two year period.¹ Corporations, labor unions, and national banks may not use treasury funds to make contributions in federal elections.² All of these limits have been upheld by the Supreme Court.³

¹ Federal Elections Commission, *Contribution Limits* available at

<http://www.fec.gov/pages/brochures/contrib.shtml#Chart> (last visited March 19, 2007).

² *McConnell v. FEC*, 540 U.S. 93, 201-2 (2003) (reaffirming limits on corporate contributions).

³ See *McConnell*, 540 U.S. 93 (upholding the soft-money ban); *California Medical Assn. v. FEC*, 453 U.S. 182 (1981) (upholding \$5,000 contribution limit to multi-candidate PACs); *Buckley v.*

Illinois is one of only three states without any contribution limits.⁴ Most states have separate contribution limits for individuals, corporations, unions, PACs, and political parties. Limits typically rise with the size of jurisdiction for which the candidate seeks office. State contribution limits have been upheld by the Supreme Court and by lower courts.⁵

Many states, in addition to limiting the amount that may be contributed to an individual candidate, also limit the aggregate amount of contributions a donor may make during a given time period or the amount that a candidate may accept from PACs in the aggregate. Both sorts of aggregate contribution limits are constitutional.⁶

Only once has the Supreme Court invalidated contribution limits. In *Randall v. Sorrell* (2006), the Court held that Vermont's contribution limits, considered with other factors, were so low as to prevent candidates from amassing sufficient funds for competitive campaigns.⁷ Vermont's limits were the lowest in the nation—individuals, PACs and political parties in Vermont were allowed to give, per election cycle, only \$400 to candidates for statewide offices; \$300 to candidates for state senator; and \$200 to candidates for state representative.⁸ *Randall* also noted that the limits were not indexed for inflation; volunteer expenses counted toward contribution limits; limits on contributions from individuals and political parties were the same; and there was no special justification (such as a history of corruption) for the low limits.⁹ The contribution limits in HB 3497 are in the mainstream of state limits nationwide and should have no trouble surviving constitutional scrutiny.

Mandatory Spending Limits Are Unconstitutional

Buckley v. Valeo reviewed the Federal Election Campaign Act, which was passed after the Watergate scandal and contained both contribution and expenditure limits. *Buckley* held that it is constitutional to limit contributions, but it is unconstitutional to limit expenditures (amounts spent directly on campaigns).¹⁰ This holding invalidating expenditure limits was

Valeo, 424 U.S. 1, 21, 25-26, 30 (1976) (per curiam) (upholding \$1,000 contribution limit to federal candidates).

⁴ The other two states without contribution limits are Oregon and Virginia. In addition to limits on the source or amount of contributions, some states have temporal limits that ban contributions when the legislature is in session. In states that have judicial elections, a host of additional regulations and limits often apply. This testimony does not address limits that apply exclusively to judicial elections.

⁵ *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 382 (2000) (upholding Missouri's limits); *Mont. Right to Life Ass'n v. Eddleman*, 343 F.3d 1085, 1092-96 (9th Cir. 2003) (upholding Montana's limits).

⁶ *Buckley*, 424 U.S. at 27 (upholding \$25,000 aggregate annual limit on individual contributions), see *Eddleman*, 343 F.3d 1085 (upholding Montana's aggregate contribution limits for PACs).

⁷ *Randall v. Sorrell*, 126 S. Ct. 2479, 2495 (2006).

⁸ *Id.* at 2486.

⁹ *Id.* at 2486, 2495, 2496, 2499.

¹⁰ *Buckley*, 424 U.S. at 19.

recently reaffirmed in *Randall*, which rejected Vermont's spending limits.¹¹ HB 3497 avoids this pitfall because it does not propose spending limits.

Voluntary Spending Limits in Public Funding Systems Are Constitutional

Although HB 3497 does not provide for public financing of elections, it should be noted that *voluntary* spending limits are permissible in the context of public financing systems. Public funding is available for presidential elections and elections for various offices in several states. In exchange for receiving public funds, the candidates agree to limit their campaign spending. The Supreme Court and lower federal courts have upheld expenditure limits accepted as a condition of receiving public funding.¹²

Limits on Corporate Independent Expenditures and Electioneering Communications Are Constitutional

Independent expenditures are expenditures made without coordination with a candidate or political party. Federal law bans the use of corporate, union, and bank treasury funds for expenditures in federal elections, including independent expenditures.¹³ The Bipartisan Campaign Reform Act ("BCRA," also known as "McCain-Feingold") extends that ban to "electioneering communications," which are defined as targeted broadcast advertisements referring to a federal candidate and run in the period immediately before an election. 2 U.S.C. § 441b. The Supreme Court has upheld bans on corporate independent expenditures and electioneering communications, when the affected corporate entities were permitted to form "separate segregated funds" or PACs to conduct the spending.¹⁴ Limits on corporate and union spending that fall short of bans are also constitutional. Seventeen states, including Illinois, have some type of regulation of electioneering communications.

"Millionaire's Amendments" Offer One Response to Self-Financed Candidates

Elected officials sometimes worry that contribution limits will make it harder for them to compete against candidates who are wealthy enough to finance their own campaigns. Congress attempted to address the advantage of self-funded candidates with the so-called "millionaire's amendment" to BCRA. This provision raises contribution limits for candidates facing high-spending, self-financed opponents and allows increased coordinated party expenditures for candidates operating under those limits.¹⁵ The millionaire's amendment has not been reviewed by any court. In addition to raising contribution limits, as HB 3497 does, another option for addressing self-financed candidates is public financing, which helps to level the playing field among candidates without exacerbating public cynicism about the influence of large contributions.

¹¹ *Randall*, 126 S. Ct. at 2485.

¹² See *Buckley*, 424 U.S. 1 (upholding the presidential public financing system under Federal Election Campaign Act).

¹³ Federal Election Commission, *Independent Expenditures Brochure* available at <http://www.fec.gov/pages/brochures/indep.shtml> (last visited March 19, 2007).

¹⁴ *McConnell*, 540 U.S. at 229-30; *Austin v. Mich. Chamber of Commerce*, 494 U.S. 652 (1990).

¹⁵ Federal Election Commission, *Millionaire's Amendment Brochure* available at <http://www.fec.gov/pages/brochures/millionaire.shtml> (last visited March 19, 2007).

Attachment F

National Institute on Money in State Politics
"State at a Glance: Alaska 2006"

Available at

http://www.followthemoney.org/database/state_overview.phtml?si=20061#election_summary



www.FollowTheMoney.org [11/14/2007 13:05]
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Current Election Totals

Total Dollars Contributed to Date: \$15,135,494

Data is 97% complete for this election cycle

Data is based on campaign finance reports filed by the candidates and other political parties with the state disclosure agency. The state databases are continually updated during the election cycle. Please check back frequently for updates. For more information on how we gather and process data, please [click here](#).

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Election Summary

	Total \$	# of Candidates	Average \$
Governor	\$5,710,514	26	\$219,635
Judicial		No Races	
Office Statewide		No Races	
House	\$3,973,488	97	\$40,964
Senate	\$1,560,798	24	\$65,033
Ballot Measures	\$3,074,052		
Party Committees	\$816,642		

House Races:
40 out of 40 seats

General Election Date:
Nov 7, 2006

Senate Races:
10 out of 20 seats

Primary Election Date:
Aug 22, 2006

Statewide Elections:
Governor, Lt. Governor

Ballot Measures:
Referenda and citizen initiatives allowed

Judicial Elections:
0 out of 5

Gubernatorial and other candidates whose terms exceed two years may have raised money in a prior election cycle, when they were not up for re-election. The totals in the above chart reflect only money raised in the current, two-year election cycle; money raised in the previous election cycle should be added to these totals to provide a complete picture of a candidate's fundraising. To find whether the candidate raised money in an off-year, choose a previous election cycle from the search menu to the right.

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Top 10 Industries Have Given 34%

Industry Name	Amount
Candidate Self-finance	\$1,537,208
Party Committees	\$690,438
Retired	\$460,233
Lawyers & Lobbyists	\$432,567
General Trade Unions	\$400,998
Health Professionals	\$382,683
Public Sector Unions	\$372,334
Real Estate	\$368,648
Oil & Gas	\$273,125
Telecom Services & Equipment	\$184,807

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Top 20 Contributors to Candidates

The top 20 contributors to candidates have given 35% of the total contributions to candidates

Contributor Name	Amount
BISKUP, JOHN <i>Candidate Self-finance</i>	\$580,979
ALASKA DEMOCRATIC PARTY <i>Party Committees</i>	\$197,750
ALASKA REPUBLICAN PARTY <i>Party Committees</i>	\$170,400
DALBELL, ANDREW J <i>Candidate Self-finance</i>	\$165,602
MURKOWSKI, FRANK H <i>Candidate Self-finance</i>	\$131,512
HOUSE DEMOCRATIC CAMPAIGN COMMITTEE OF ALASKA <i>Party Committees</i>	\$106,200
OLSON, DONALD C <i>Candidate Self-finance</i>	\$106,000
ALASKA PUBLIC EMPLOYEES ASSOCIATION <i>Public Sector Unions</i>	\$102,002
ELECTRICAL WORKERS IBEW <i>General Trade Unions</i>	\$88,751
MORTAL, WILLIAM M/TOM <i>Candidate Self-finance</i>	\$87,100
MAYO, LOUIS EARL <i>Candidate Self-finance</i>	\$83,629
ALASKA ASSOCIATION OF REALTORS <i>Real Estate</i>	\$83,000
OPERATING ENGINEERS LOCAL 102/100E <i>General Trade Unions</i>	\$71,500
ALASKA STATE EMPLOYEES ASSOCIATION LOCAL 52 <i>Public Sector Unions</i>	\$69,500
ASSOCIATED GENERAL CONTRACTORS OF ALASKA AGR <i>General Contractors</i>	\$67,750

SENATE DEMOCRATIC CAMPAIGN CMTE OF ALASKA <i>Party Committees</i>	\$63,754
ALASKA PUBLIC EMPLOYEES LOCAL 716/UNA <i>Public Sector Unions</i>	\$62,750
ALASKA LABORERS LOCAL 341/UNA <i>General Trade Unions</i>	\$58,251
GCC CITIZENS FOR COMPETITION <i>Telecom Services & Equipment</i>	\$51,932
ALASKA TEAMSTERS INT. DRIVE <i>Transportation Unions</i>	\$51,502

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Attachment G

National Institute on Money in State Politics
"State at a Glance: Alaska 2006: Economic Sector Breakdown"
Available at

http://www.followthemoney.org/database/state_overview_sectors.phtml?si=20061



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Economic Sector Breakdown

Candidate Contributions	\$1,537,207
Labor	\$715,084
Party	\$854,476
Other/Retiree/Civil Servants	\$627,432
Finance, Insurance & Real Estate	\$665,071
Health	\$471,132
Lawyers & Lobbyists	\$432,567
Energy & Natural Resources	\$400,407
Construction	\$325,830
General Business	\$256,670
Transportation	\$238,120
Communications & Electronics	\$206,192
Ideology/Single Issue	\$34,890
Agriculture	\$10,865
Defense	\$2,000

For more detailed information on the above Economic Sector Breakdowns, click here.

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Current Election Totals

Total Dollars Contributed to Date: \$15,135,494

Data is 97% complete
for this election cycle

Data is based on campaign-finance reports filed by the candidates and other political parties with the state disclosure agency. The state databases are continually updated during the election cycle.

Contribution Totals By Economic Interest

Economic Sector	# of Contributions	Total \$	Percent of Total
▶ <u>Energy & Natural Resources</u>	942	\$2,152,427	14.22%
▶ <u>Transportation</u>	521	\$1,598,751	10.56%
▶ <u>Candidate Contributions</u>	446	\$1,537,208	10.16%
▶ <u>Party</u>	855	\$982,829	6.49%
▶ <u>Labor</u>	1,055	\$957,959	6.33%
▶ <u>Finance, Insurance & Real Estate</u>	1,159	\$699,282	4.62%
▶ <u>Other/Retiree/Civil Servants</u>	3,274	\$658,415	4.35%
▶ <u>Lawyers & Lobbyists</u>	1,571	\$546,977	3.61%
▶ <u>Health</u>	1,121	\$514,553	3.40%
▶ <u>Construction</u>	698	\$342,136	2.26%
▶ <u>General Business</u>	661	\$288,356	1.91%
▶ <u>Communications & Electronics</u>	459	\$224,568	1.48%
▶ <u>Ideology/Single Issue</u>	65	\$46,240	0.31%
▶ <u>Agriculture</u>	26	\$11,365	0.08%
▶ <u>Defense</u>	2	\$2,000	0.01%

State v. Alaska Civil Liberties Union 978 P.2d 597 Alaska, 1999.

Real harm test for First Amendment analysis of campaign finance limitations does not require exhaustive proof of corruption, but merely empirical support or at least sound reasoning in favor of the measures defended.

Statutory restrictions on campaign contributions by nonresident individuals and groups were not shown to unconstitutionally impinge on nonresidents' speech or associational rights; limits were closely drawn to achieve the goal of preventing non-resident contributors from drowning out the voices of Alaska residents.

Statute prohibiting a registered lobbyist from contributing to legislative candidates in districts outside the district in which the lobbyist is eligible to vote was narrowly tailored to further State's compelling interest, thus satisfying the First Amendment; evidence supported State's assertion that lobbyists' contributions were especially susceptible to creating an appearance of corruption, the out-of-district ban drew a logical compromise between lobbyists' private rights and their professional obligations, and the restraint did not foreclose lobbyists from engaging in political speech.

The State asserts here, as it did below, that SB 191 was a response to the initiative and to public concerns about actual and apparent corruption in Alaska politics. The Act recited these legislative findings:

(3) organized special interests are responsible for raising a significant portion of all election campaign funds and may thereby gain an undue influence over election campaigns and elected officials, particularly incumbents ...

....

(5) because, under existing laws, candidates are completely free to convert campaign funds to personal income, there is great potential for bribery and political corruption.

Sec. 15.13.050. Registration before expenditure.

(a) Before making an expenditure in support of or in opposition to a candidate or before making an expenditure in support of or in opposition to a ballot proposition or question, each person other than an individual shall register, on forms provided by the commission, with the commission.

(b) If a group intends to support only one candidate or to contribute to or expend on behalf of one candidate 33 1/3 percent or more of its funds, the name of the candidate shall be a part of the name of the group. If the group intends to oppose only one candidate or to contribute its funds in opposition to or make expenditures in opposition to a candidate, the group's name must clearly state that it opposes that candidate by using a word such as "opposes," "opposing," "in opposition to," or "against" in the group's name. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. A candidate may register more than one group to support the candidate; however, multiple groups controlled by a single candidate shall be treated as a single group for purposes of the contribution limit in AS 15.13.070(b)(1).

((1 ch 76 SLA 1974; am 15 ch 189 SLA 1975; am 8 ch 48 SLA 1996; am 1 ch 3 SLA 2002))

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 1996 amendment, effective January 1, 1997, rewrote this section.

The 2002 amendment, effective April 16, 2002, in subsection (b) added the last sentence and made minor stylistic changes.

NOTES TO DECISIONS

Disclosure requirements constitutional. - The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Cited in *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Sec. 15.13.060. Campaign treasurers.

(a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

(c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(d) In the case of the death, resignation, or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file the successor's name and address with the commission within 48 hours of the appointment. The candidate is disqualified if found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of the campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if the candidate knew or had reason to know of the default or violation.

((1 ch 76 SLA 1974; am 16 - 19 ch 189 SLA 1975; am 1 ch 133 SLA 1977; am 35 ch 59 SLA 1982))

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

NOTES TO DECISIONS

ANALYSIS

I.	General	Consideration
II.	Subsection	(C)

I. GENERAL CONSIDERATION.

Cited in

State, Alaska Pub. Offices Comm'n v. Marshall, 633 P.2d 227 (Alaska 1981); Black v. State, 76 P.3d 417 (Alaska Ct. App. 2003).

II. SUBSECTION (C).

Annotator's notes. -

Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

This section is not unconstitutional in that it sets up "invalid class legislation." Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Subsection (c) should be strictly enforced. - Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Effect of unequal enforcement of AS 39.50.020 on enforcement of subsection (c). - Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement, did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Telephone conversation not appropriate filing. - Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intentment of subsection (c). Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Sec. 15.13.065. Contributions.

(a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010 - 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or

(4) a municipality shall be incorporated.
((9 ch 48 SLA 1996; am 7 ch 1 SLA 2002))

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 2002 amendment, effective April 16, 2002, inserted references to nongroup entities in three places in subsection (a) and made minor stylistic changes.

Sec. 15.13.067. Who may make expenditures.

Only the following may make an expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and

(4) a nongroup entity that has registered under AS 15.13.050.
((9 ch 48 SLA 1996; am 8 ch 1 SLA 2002))

Effect of amendments. The 2002 amendment, effective April 16, 2002, added paragraph (4) and made related stylistic changes.

NOTES TO DECISIONS

Cited in *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006)

Sec. 15.13.070. Limitations on amount of political contributions.

(a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than

(1) \$500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;

(2) \$5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than \$1,000 per year

(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate;

(2) to another group, to a nongroup entity, or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed

(1) \$100,000 per year, if the election is for governor or lieutenant governor;

(2) \$15,000 per year, if the election is for the state senate;

(3) \$10,000 per year, if the election is for the state house of representatives; and

(4) \$5,000 per year, if the election is for

(A) delegate to a constitutional convention;

(B) judge seeking retention; or

(C) municipal office.

(e) This section does not prohibit a candidate from using up to a total of \$1,000 from campaign contributions in a year to pay the cost of

(1) attendance by a candidate or guests of the candidate at an event or other function sponsored by a political party or by a subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; or

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party.

(f) A nongroup entity may contribute not more than \$1,000 a year to another nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, to a group, or to a political party.

((1 ch 76 SLA 1974; am 20, 21 ch 189 SLA 1975; am 45 ch 85 SLA 1986; am 10 ch 48 SLA 1996; am 2 ch 74 SLA 1998; am 9 - 11 ch 1 SLA 2002; am 2 ch 3 SLA 2002; am 8 - 10 ch 108 SLA 2003; am 1, 2, 2006 Primary Election Ballot Measure No. 1))

Cross references. For prohibition against certain campaign fund-raising by legislators, see AS 24.60.030.

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 1996 amendment, effective January 1, 1997, rewrote this section.

The 1998 amendment, effective June 4, 1998, added subsection (e).

The first 2002 amendment, effective April 16, 2002, in subsection (b) inserted the language beginning "to a nongroup" and ending "of a candidate" in paragraph (1); in subsection (c) inserted ", a nongroup entity," in paragraph (2); and added subsection (f).

The second 2002 amendment, effective April 16, 2002, in subsection (b) added "for the purpose of influencing the nomination or election of a candidate or candidates" at the end of paragraph (2).

The 2003 amendment, effective September 14, 2003, increased the allowed contributions in subsections (b), (c), and (f) and made stylistic changes.

The 2006 amendment, effective December 17, 2006 rewrote subsections (b) and (c).

Opinions of attorney general. There seems to be no difference between §608(c) of the Federal Elections Campaign Act of 1971, former 18 U.S.C. 608(c), and subsection (f) of this section; accordingly, based on the reasons stated in *Buckley v. Vale*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), for finding unconstitutional 608(c) of the federal act, subsection (f) of this section is invalid as a violation of the rights and privileges protected by the 1st amendment. May 13, 1976 Op. Att'y Gen (decided prior to the 1986 repeal of subsection (f)).

The Public Offices Commission should not undertake investigations of violations of subsection (f) of this section, and candidates or others may be advised that no implementation or enforcement of subsection (f) of this section is planned by the office of the attorney general. May 13, 1976 Op. Att'y Gen. (decided prior to the 1986 repeal of subsection (f)).

The \$1000 statutory limit under this section is applicable to "control groups" under former AS 15.13.130(4). Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

NOTES TO DECISIONS

Constitutionality. - The \$500 limitation on individual contributions for electoral campaigns in Alaska set forth in subsection (b) is justified by evidence that contribution limits do not place a substantial burden on the ability of candidates to run competitive local or state election campaigns. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Limits on individuals' contributions to groups and political parties are reasonable; preventing individuals from channeling their contributions through a group or a party, and thus avoiding the limit on individuals' contributions to candidates, is a valid purpose. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitation in subsection (c), that a "group" that is not a political party may not contribute more than \$1,000 per year to a candidate, another group, or a political party, is reasonable. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The graduated limits for political parties' contributions to candidates set forth in subsection (d) serve the State's legitimate governmental interest, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitations in former AS 15.13.070(b)(2) on individuals' soft money contributions to political parties were constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Implementation by regulations. - Alaska Admin. Code tit. 2, 50.327, which was legally promulgated and requires that political parties report soft money contributions and expenditures, implements the Campaign Disclosure Act. *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

Applied in *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

Cited in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981)

Collateral references. Power of corporation to make political contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals 94 ALR3d 944.

Sec. 15.13.072. Restrictions on solicitation and acceptance of contributions.

(a) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution from

- (1) a person not authorized by law to make a contribution;
- (2) an individual who is not a resident of the state at the time the contribution is made, except as provided in (e) of this section;
- (3) a group organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made; or
- (4) a person registered as a lobbyist if the contribution violates AS 15.13.074(g) or AS 24.45.121(a)(8).

(b) A candidate or an individual who has filed with the commission the document necessary to permit the individual to incur election-related expenses under AS 15.13.100, or a group, may not solicit or accept a cash contribution that exceeds \$100.

(c) An individual, or one acting directly or indirectly on behalf of that individual, may not solicit or accept a contribution

(1) before the date for which contributions may be made as determined under AS 15.13.074(c); or

(2) later than the day after which contributions may not be made as determined under AS 15.13.074(c).

(d) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the state legislature may not solicit or accept a contribution while the legislature is convened in a regular or special legislative session unless the solicitation or acceptance occurs

(1) during the 90 days immediately preceding an election in which the candidate or individual is a candidate; and

(2) in a place other than the capital city.

(e) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made if the amounts contributed by individuals who are not residents do not exceed

(1) \$20,000 a calendar year, if the candidate or individual is seeking the office of governor or lieutenant governor;

(2) \$5,000 a calendar year, if the candidate or individual is seeking the office of state senator;

(3) \$3,000 a calendar year, if the candidate or individual is seeking the office of state representative or municipal or other office.

(f) A group or political party may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made, but the amounts accepted from individuals who are not residents may not exceed 10 percent of total contributions made to the group or political party during the calendar or group year in which the contributions are received.

(g) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the office of governor or lieutenant governor may not solicit or accept a contribution in the capital city while the legislature is convened in a regular or special legislative session.

(h) A nongroup entity may solicit or accept contributions for the purpose of influencing the nomination or election of a candidate from an individual who is not a resident of the state at the time the contribution is made or from an entity organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made. The amounts accepted by the nongroup entity from these individuals and entities for the purpose of influencing the nomination or election of a candidate may not exceed 10 percent of total contributions made to the nongroup entity for the purpose of influencing the nomination or election of a candidate during the calendar year in which the contributions are received.

((11 ch 48 SLA 1996; am 1 ch 14 SLA 1998; am 3, 4 ch 74 SLA 1998; am 12 ch 1 SLA 2002; am 11 ch 108 SLA 2003))

Administrative Code. - For campaign disclosure, see 2 AAC 5th part, 2.

Effect of amendments. The first 1998 amendment, effective April 21, 1998, rewrote subsection (d).

The second 1998 amendment, effective June 4, 1998, in subsection (d) added the paragraph (1) designation, added paragraph (2), and made minor stylistic changes; and added subsection (g).

The 2002 amendment, effective April 16, 2002, added subsection (h).

The 2003 amendment, effective September 14, 2003, in subsection (e) inserted "a calendar year" in three places.

NOTES TO DECISIONS

Constitutionality. - Attempting to limit outside influences in Alaska politics is a sufficiently compelling state interest to justify the restrictions on contributions by nonresidents set forth in subsections (a), (e), and (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Sec. 15.13.074. Prohibited contributions.

(a) A person, group, or nongroup entity may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary election if the candidate was not nominated at the primary election; or

(B) after the date of the general election, or after the date of a municipal or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072(c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial

registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. Upon request of the commission, the information required under this subsection shall be submitted electronically. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116(a)(2)(A).

(i) A nongroup entity may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election unless the potential contributor is notified that the contribution may be used for that purpose.

((11 ch 48 SLA 1996, am 12 ch 48 SLA 1996; am 2 ch 14 SLA 1998; am 5 ch 74 SLA 1998; am 8 ch 33 SLA 1999; am 13 - 15 ch 1 SLA 2002; am 12, 13 ch 108 SLA 2003))

Revisor's notes. The amendment to (c) of this section made by 12, ch. 48, SLA 1996 took effect July 16, 1999 under 33(b) and 34, ch. 48, SLA 1996. The contingency described in 33(b), ch. 48, SLA 1996 occurred 90 days after the date of the decision in *State of Alaska v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska Opin. No. 5108, April 16, 1999). The 90 day period represents the time during which a petition for certiorari could have been filed with the U.S. Supreme Court. The State did not file a petition for certiorari, and therefore that part of the decision declaring AS 15.13.074(c) (as enacted in 11, ch. 48, SLA 1996) unconstitutional became final at the close of business July 15, 1999. Under 34, ch. 48, SLA 1996, the amendment to (c) of this section made by 12, ch. 48, SLA 1996, became effective the next day, July 16, 1999. Because it appeared to the revisor that the intervening amendments made to subsection (c) by 2, ch. 14, SLA 1998 and 5, ch. 74, SLA 1998 were inconsistent with the repeal and reenactment of subsection (c) under 12, ch. 48, SLA 1996, those 1998 amendments were not retained.

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 1996 amendment, effective July 16, 1999, rewrote subsection (c).

The first 1998 amendment, effective April 21, 1998, in subsection (c), deleted "when the office is to be filled at a general election," preceding "before the later" in the introductory language of paragraph (1), deleted "general" preceding "election" in subparagraphs (1)(B) and (2)(B), rewrote paragraph (2), deleted "special election or" preceding "municipal election" in the introductory language of paragraph (3), and rewrote subparagraph (3)(B).

The second 1998 amendment, effective June 4, 1998, in subsection (c) added "when the office is to be filled at a general election; or" at the end of subparagraph (1)(B) and added subparagraph (1)(C), inserted "in a place other than the capital city" in the introductory language in paragraph (2), added "the date that" at the beginning of subparagraph (3)(B), rewrote the introductory language to paragraph (4), added paragraph (5), and made minor stylistic changes.

The 1999 amendment, effective May 28, 1999, made a section reference substitution at the end of paragraph (h)(2).

The 2002 amendment, effective April 16, 2002, in subsections (a) and (f) inserted references to nongroup entities; in subsection (f) inserted "entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code)"; added subsection (i); and made related stylistic changes.

The 2003 amendment, effective September 14, 2003, rewrote paragraph (c)(3) and added the next-to-last sentence in subsection (g).

NOTES TO DECISIONS

Constitutionality. - Alaska has a substantial governmental interest in campaign finance reform that justifies some restriction on First Amendment freedoms, including the ban on contributions by a corporation, company, partnership, firm, association, organization, business trust, surety, or labor union in subsection (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The restrictions on contributions and expenditures by corporations and labor unions, considered together, are not so extreme as to constitute bans on issue advocacy. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The ban on out-of-district lobbyist contributions in subsection (g) is narrowly tailored to further the State's compelling interest, and the restraint does not foreclose lobbyists from engaging in political speech. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The post-election contribution limits of paragraph (c)(4) comprise a narrowly-tailored impact on associational rights to further compelling state interests, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

AS 15.13.074(f) is constitutional to the extent that it prohibits a corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity from making a contribution to a political party for the purpose of nominating or electing a candidate. The provision does not prohibit, and is unconstitutional to the extent that it prohibits, contributions by these entities to a political party for a purpose other than influencing the nomination or election of a candidate. *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Soft money ban on corporate contributions to political parties under AS 15.13.074(f) is constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Reporting provisions of this section and AS 15.13.040(d), (e) and (j), 15.13.082(b), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state's interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Pre-election contribution limits invalid. - The pre-election contribution limits of paragraphs (c)(1), (2), and (3) are invalid, and the eighteen-month contingent pre-election time limits in ch. 48 12, SLA 1996 are effective. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Prohibition on contributions during legislative session invalid. - The prohibition against making contributions to legislative candidates, including both challengers and incumbents, during a regular legislative session, set forth in paragraph (c)(2), is not narrowly tailored to the State's compelling interest of preventing corruption or its appearance, and is therefore invalid. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Severability. - Chapter 48, SLA 1996, which revised Alaska's election campaign finance laws, provides both a severability clause and contingent provisions to become effective if parts of the act are held invalid; thus, invalidation of some parts of the act does not undermine the structure of the whole, and legal effect can be given to the remaining provisions. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Sec. 15.13.400. Definitions.

In this chapter,

(1) "candidate"

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

(i) a candidate's campaign treasurer and a deputy campaign treasurer;

(ii) a member of the candidate's immediate family;

(iii) a person acting as agent for the candidate;

(iv) the candidate's campaign committee; and

(v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

(2) "commission" means the Alaska Public Offices Commission;

(3) "communication" means an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) "group" means

(A) every state and regional executive committee of a political party; and

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;

(9) "immediate family" means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

(13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that

(A) cannot participate in business activities;

(B) does not have shareholders who have a claim on corporate earnings; and

(C) is independent from the influence of business corporations.

(14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;

(15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;

(16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation.

((24 ch 48 SLA 1996; am 39 ch 21 SLA 2000; am 25, 26 ch 1 SLA 2002; am 7 ch 3 SLA 2002; am 8, 9 ch 1 TSSLA 2002; am 18, 19 ch 108 SLA 2003; am 2 ch 90 SLA 2006))

Revisor's notes. Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13)-(16). Renumbered in 2002 to retain alphabetical order.

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 2000 amendment, effective April 28, 2000, substituted "house district" for "election district" in subparagraph (10)(B).

The first 2002 amendment, effective April 16, 2002, added paragraph (13) and in paragraph (14) inserted ", nongroup entity."

The second 2002 amendment, effective April 16, 2002, in subparagraph (4)(B), in item (i) inserted "political party," and deleted ", but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage," from the end; deleted former item (ii), which read "services provided by an accountant or other person to prepare reports and statements required by this chapter; redesignated former item (iii) as item (ii); added present items (iii) to (v); and made a stylistic change.

The third 2002 amendment, effective June 26, 2002, added subparagraph (6)(C) and paragraphs (3), (5), (7), and (12).

The 2003 amendment, effective September 14, 2003, rewrote paragraphs (7) and (15).

The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

Opinions of attorney general. The statutory limit under AS 15.13.070(a) is applicable to "control groups" under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

NOTES TO DECISIONS

Constitutionality. - Under the First Amendment, former AS 15.13.400(3)(B)(i) was unconstitutional to the extent that it limited the volunteering of professional services by individuals, but the statute was constitutional as to the ban on the provision of volunteer services by corporations. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Alaska's campaign finance law, AS 15.13.030 et seq., does not violate pro-life association's First Amendment rights because this section's definition of "electioneering communication" is not unconstitutionally vague or overbroad either facially or as applied, and the reporting and disclosure provisions are reasonable and serve a significant state interest. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Applied in *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Quoted in *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Cited in *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729*



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: Representative Bob Lynn, Chair
House State Affairs Committee

Fm: Jim Pound

Cc:

Date: January 15, 2008

Re: Request for hearing of HB 299

Please consider this to be a request for the House State Affairs Committee to schedule a hearing for HB 299, "An Act relating to campaign contributions made to a candidate in state elections; and providing for an effective date."

HB 299 is a change to the campaign contribution process. This change will provide eligible voters assurances that their candidates are not beholding to special interests because of large campaign contributions.

HB 299 is a strong step towards the campaign reform that our constituents are demanding and I urge your consideration of this bill before the committee and your earliest convenience. Thank you for your time and consideration. If you have any additional questions please do not hesitate to contact me.

Attachments: Sponsor Statement, HB 299, Sectional, Research Report, State v. ACLU 1999, Sections of AS 15.13 (existing language)

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 299
 () Publish Date: _____

Identifier (file name): HB299-DOA-APOC-1-18-08 Dept. Affected: Administration
 Title: "An Act relating to campaign contributions to candidates in state elections; and providing for an effective date..." RDU: AK Public Offices Commission
 Component: AK Public Offices Commission
 Sponsor: Representative Keller
 Requester: House State Affairs Component Number: 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time		0.0	0.0	0.0	0.0	0.0	0.0
Temporary		0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 This bill seeks to change the campaign disclosure law so that political groups that are not political parties may not give campaign contributions to candidates for state office. It also provides that individuals may only give campaign contributions to candidates running for the legislature, judicial retention, or municipal office in the district in which the contributor is qualified to register to vote.

Prepared by: Brooke Miles
 Division: Alaska Public Offices Commission
 Approved by: Kevin Brooks, Deputy Commissioner
Department of Administration

Phone: 907-334-1726
 Date/Time: 1/18/2008 9.26 a.m.
 Date: 1/18/2008

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729*



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: House State Affairs Committee

Fm: Jim Roland, Professional Staff

Cc: Rep. Wes Keller

Date: February 7, 2008

Re: Response to questions posed on HB 299

I would like to thank the Committee for hearing HB 299 and for the time involved in your review prior to the meeting to ask very informed questions. I should point out that the intent of the bill is to show the voting public, in light of the events of this past year, true accountability to the constituents.

As to the questions regarding PACs and their ability to create groups that could spend large amounts of money to oppose or support a candidate:

HB 299 does not address this issue as it is already allowable under current statute and the bill was not specifically written to make changes to that part of the law. We had considered this during the drafting process and determined attempts to limit PACs in this manner could be challenged in court under the First Amendment Right of Free Speech.

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Thank you

By far the biggest concern we faced while working on this piece of legislation was the one referenced most often by the committee, the First Amendment. Based on research the language in HB 299 should pass constitutional muster.

I have spent some time reviewing several cases and find the most compelling defense is from a Supreme Court of the United States case *Buckley v. Valeo* 424 U.S. 1, 96 S.Ct. 612 (1976). While it is a 1976 case, the Supreme Court strongly upholds the *Stare decisis* in *Buckley* so I have based the review on how the court may interrupt this particular language as to its constitutionally especially based on the past year in the Alaska Legislature.

I must state for the record that I am not an attorney. The bold print in this memo is emphasis added by me.

In *Randall*, *Randall v. Sorrell* 126 S.Ct. 2479 (2006), the court is emphatic that restrictions on the process do not violate the Constitution provided it can pass the **compelling state interest** test.

The *Buckley* Court recognized,

inter alia, that such limits, unlike expenditure limits, "involv[e] little direct restraint on" the contributor's speech, 424 U.S., at 21, 96 S.Ct. 612, and are permissible as long as the government demonstrates that they are "**closely drawn**" to match a "**sufficiently important interest**," *id.*, at 25, 96 S.Ct. 612. It found that the interest there advanced, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the contribution limits, *id.*, at 25-26, 96 S.Ct. 612, and that those limits were "closely drawn."

Further Justice Breyer concluded:

They do restrict "one aspect of the contributor's freedom of political association," namely, the contributor's ability to support a favored candidate, but they nonetheless "permi[t] the symbolic expression of support evidenced by a contribution," and they do "not in any way infringe the contributor's freedom to discuss candidates and issues." *Id.*, at 21, 24, 96 S.Ct. 612.

Consequently, the Court wrote,

contribution limitations are permissible as long as the Government demonstrates that the limits are "closely drawn" to match a "sufficiently important interest." *Id.*, at 25, 96 S.Ct. 612. It found that the interest advanced in the case, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the statute's contribution limits. *Id.*, at 25-26, 96 S.Ct. 612.

Even Alaska's Supreme Court has reviewed Campaign Finance Reform in *State v. A.C.L.U.* 978 P.2d 597 Alaska (1999) finding that the stricter limits met a "real harm test."

Real harm test for First Amendment analysis of campaign finance limitations does not require exhaustive proof of corruption, but merely empirical support or at least sound reasoning in favor of the measures defended.

I would suggest that based on the past year of activity by law enforcement at the federal level, that this legislation most certainly is "closely drawn" to the needs of the state and that corruption or the appearance of corruption will be greatly reduced by passage of this or similar language. The Courts, especially the federal courts would find it very difficult to rule that it violates or restricts the first or fourteenth amendments; again I reference our Supreme Court in *State* from a suit filed after the 19th Legislature passed SB 191:

The State asserts here, as it did below, that SB 191 was a response to the initiative and to public concerns about actual and apparent corruption in Alaska politics. The Act recited these legislative findings:

(3) organized special interests are responsible for raising a significant portion of all election campaign funds and may thereby gain an undue influence over election campaigns and elected officials, particularly incumbents ...

There is of course an opposing point of view as found in *VanNatta, VanNatta v. Keisling 151 F.3d 1215 C.A.9 (Or.), 1998* which more closely reviews a similar piece of legislation under a different set of circumstances. In *VanNatta* the Ninth Circuit invalidated the concept of out of district "donations" stating that "out-of-district contributions lead to the sort of corruption discussed....". Since preventing corruption and the appearance of corruption is the only justification which has been found to justify infringing on the First Amendment freedom...the court found that a complete ban on out-of-district contributions was not closely drawn to serve this goal.

Our State Supreme Court looks at it a little differently in *State*:

Statute prohibiting a registered lobbyist from contributing to legislative candidates in districts outside the district in which the lobbyist is eligible to vote was narrowly tailored to further State's compelling interest, thus satisfying the First Amendment; evidence supported State's assertion that lobbyists' contributions were especially susceptible to creating an appearance of corruption, the out-of-district ban drew a logical compromise between lobbyists' private rights and their professional obligations, and the restraint did not foreclose lobbyists from engaging in political speech.

While the particular issue here is lobbyist, corporations and groups often use lobbyist, professional or not to get their point of view in front of individual legislators

Once again I must stress a review of the events of the past year that a federal court would find it difficult not to find in favor of this legislation based on corruption.

The U.S. Courts have also been clear on the legislature's ability to legislate in this area. The Ninth referred to *Holt, Holt Civic Club v. City of Ypsilanti 439 U.S. 60, 99 S.Ct. 383 (1978)* which offers some interesting insight to the separation of power, especially between the legislative and judicial branches.

The *Holt* Court separates those powers:

- (a) A government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. Various voting qualification decisions on which appellants rely in support of their contention that the denial of the franchise to them, can stand only if justified by a compelling state interest are inapposite.

It further acknowledges that it has not traditionally determined how a sovereign state determines its political process, and not the courts place to determine government units.

No decision of this Court has extended the "one man, one vote" principle to individuals residing beyond the geographic confines of the governmental entity concerned, be it the State or its political subdivisions. On the contrary, our cases have uniformly recognized that a government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. See, e. g., *Dunn v. Blumstein*, 405 U.S. 330, 343-344, 92 S.Ct. 995, 1003-1004, 31 L.Ed.2d 274 (1972), *Evans v. Cornman*, *supra*, 398 U.S. at 422, 90 S.Ct. at 1754; *Kramer v. Union Free School Dist.*, 395 U.S. at 625, 89 S.Ct. at 1888; *Carrington v. Rash*, 380 U.S. 89, 91, 85 S.Ct. 775, 777, 13 L.Ed.2d 675 (1965), *Pope v. Williams*, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904).

Conclusion

I hope this answers the questions of Constitutionality brought up by the Committee. If there are any other questions please feel free to contact me or Representative Keller. Again we would like to thank the committee members for their interest in the concept and their diligence during the hearing.