

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11182 SENATE JUDICIARY

INTRODUCTION

Initiative and referendum operated quietly in the background of state politics for much of the 20th century, but during the last decade, it has come back into vogue. More initiatives are circulated, more make it to the ballot, and more money is spent in the process than ever before. Consider the numbers: 183 statewide votes on initiatives in the 1970s, 253 in the 1980s, and 383 in the 1990s, more than double the total from the 1970s. California alone accounts for 130 of the total 819 measures during that 30-year period; Oregon claims 107. Between them, these two states account for nearly 30 percent of all initiatives from 1970 to 1999. It is no wonder that people in California and Oregon are beginning to voice concerns about the initiative process.

Initiative advocates say the resurgence of the initiative is good for states—it means citizens are using it as a tool to implement new laws and reforms that the legislature is unable or unwilling to enact. Besides accomplishing policy change, supporters also say that initiatives increase citizen involvement with government—people are not only more aware of state policy issues, but they are also more likely to vote. For these reasons, movements have begun to establish an initiative process in some of the states that currently do not have such a process.

However, in some states where the initiative is heavily used, there is growing public frustration with initiatives, and some people are beginning to speak out against the process. Legislatures are struggling to find ways to prevent fraud in the signature-gathering process; disclose information about who pays for initiative campaigns; and add flexibility to the process to accommodate more debate, deliberation and compromise than presently exists. Equally concerning to many is the disadvantage that, unlike our legislatures' process of representative government, decisions made through the initiative process do not provide an opportunity to accommodate minority interests. Most importantly, initiatives ask voters to make simple yes-no decisions about complex issues without subjecting the issue to detailed expert analysis and without asking voters to balance competing needs with limited resources. In short, the initiative affects the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.

The problems with the initiative process are not easy to solve for a number of reasons. The courts have made it difficult to regulate both petition circulators and initiative campaign finance, and almost any reform can be a difficult political issue because proponents of the initiative generally are hostile to legislative attempts to change the process.

The initiative is a vital and popular part of democracy in half the states (refer to appendix A for a list of initiative states), but it is clear that the initiative has outgrown the existing state laws governing it. NCSL's Initiative and Referendum Task Force set out to first gather the facts and data necessary to paint an accurate picture of how the initiative process works in each state. It identified and focused on problems in the process, then considered ways that the process might be made more open and flexible. The task force feels strongly that the changes it recommends in the initiative process would equally benefit both voters and the legislative process, and that, in the end, a reformed initiative process might produce better public policy.

The task force met three times during a five-month period. Meetings were held on:

- December 7-8, 2001, in Washington, D.C.;
- February 8-9, 2002, in Washington, D.C.; and
- April 26-27, 2002, in Denver, Colorado.

The task force took great care to ensure that it heard testimony from experts and activists on a wide array of issues and from as many points of view as possible. Presenters included both supporters and critics of the initiative process, citizens who use the initiative process, and election administrators. The experts who testified before the task force were:

David Broder, *Washington Post*, Washington, D.C.;
Lois Court, Save our Constitution, Colorado;
Neal Erickson, Office of the Secretary of State, Nebraska;
Wayne Pacelle, Humane Society of the United States, Washington, D.C.;
John Perez, Speaker's Commission on the California Initiative Process, California;
Honorable Joe Pickens, State Representative, Florida;
Larry Sokol, Speaker's Commission on the California Initiative Process, California;
M. Dane Waters, Initiative and Referendum Institute, Washington, D.C.; and
Joseph F. Zimmerman, State University of New York-Albany, New York.

In addition to the experts who testified before the task force, the task force members themselves are experts on the initiative process. The perspectives and suggestions that each member brought to the table contributed to the extensive body of knowledge the task force developed about how the initiative works around the country. Finally, the task force also relied on a wide array of written materials on the initiative process. These include reports from earlier initiative reform commissions and task forces, and the many books and academic papers that are listed in appendix B and in the reference section of this report.

The task force adopted 30 recommendations for legislatures in the initiative states that are seeking guidance on how their initiative process might be improved. Four additional recommendations are meant for states that may be thinking about adopting an initiative process. Although the task force does not recommend that non-initiative states adopt such a procedure, these four recommendations are offered for those states that have, nonetheless, made the decision to go forward.

All the recommendations were based on a set of observations and conclusions about representative and direct democracy that were adopted by the task force at its first meeting. These principles reflect the task force members' belief that it is important to carefully balance the pure democratic impulse of the initiative with the deliberative, consensus-

building practices of representative democracy. It also is the belief of task force members that the adoption of this set of recommended reforms by initiative states will lead to a more thoughtful lawmaking process, improved interaction between initiative proponents and legislatures, and ultimately, better public policy.

OBSERVATIONS AND CONCLUSIONS ABOUT REPRESENTATIVE AND DIRECT DEMOCRACY

Adopted by the NCSL I&R Task Force on April 27, 2002

We offer in the following observations regarding representative and direct democracy.

1. Representative democracy is the foundation of America's system of government.
2. Representative democracy has provided a stable and flexible system of government that has served America well for more than 200 years.
3. Direct democracy, as envisioned in the initiative and referendum system, was first instituted as a check on representative democracy. It was meant to enhance representative government, not to supercede or abolish it.
4. As intended by its founders, the initiative and referendum process was meant to give citizens a tool to break what they perceived as the hold of special interests over some state legislatures.
5. In most of the 24 states where it exists, the initiative is a popular part of the lawmaking process.
6. The initiative brings to the fore issues that may not receive legislative attention or final action and engages citizens in a debate of important public policy issues.

Based on these observations, we draw the following conclusions about direct democracy.

1. The initiative has evolved from its early days as a grassroots tool to enhance representative government. Today, it is often a tool of special interests.
2. The initiative process, as it exists today, lacks some of the critical elements of the representative system of government, including debate, deliberation, flexibility, compromise and transparency.

3. The initiative process does not involve all the checks and balances that representative government does.
4. The initiative can affect the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.
5. As the initiative process and the way it is used have evolved over time, a review of the laws governing it is merited.

1. GENERAL RECOMMENDATIONS REGARDING THE INITIATIVE PROCESS

Recommendations

The task force does not recommend that states that currently do not have an initiative process should adopt one. However, if a state is intent upon adopting an initiative process, the following four recommendations lay out the task force's view of how an effective process might be structured.

Recommendation 1.1: States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should consider:

- A. First, adopting the advisory initiative; or
- B. In the alternative, adopting the general policy initiative.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Overview

The task force does not recommend that non-initiative states adopt an initiative process. However, should a state choose to do so, the recommendations in this chapter outline what the task force considers to be an ideally structured initiative process.

The Advisory Initiative

An advisory initiative process provides citizens with a formal means of presenting to the legislature the views of the majority on a particular issue, but stops short of the actual enactment of laws. It permits public input in the decision-making process, and allows the legislature to weigh public opinion in determining the appropriate implementation. In short, the advisory initiative uses a more deliberative lawmaking process than the direct initiative. Another advantage of the advisory initiative over the binding direct initiative is that, with the direct initiative, a slim majority might enact a binding policy measure, but a close vote on an advisory initiative simply indicates a lack of consensus.

Recommendation 1.1(A): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should first consider adopting the advisory initiative.

Several states use the advisory referendum, whereby the legislature or even the governor may place a question on the ballot, asking voters their opinion on an issue. In 2000, for example, the governor of Rhode Island placed an advisory question on the statewide ballot, asking voters if they favored co-equal branches of government. It is much rarer for states to permit citizens to initiate an advisory question.

The General Policy Initiative

A general policy initiative is similar to the advisory initiative discussed above, except that it is binding upon the legislature. If the voters pass a citizen initiative of a general sort—for instance, expressing their desire that the state use tobacco settlement revenues for improving health care—it is up to the legislature to enact the specific laws required to implement that general policy. Like the advisory initiative, the general policy initiative permits direct public input to the policymaking process but uses a more deliberative approach to crafting detailed policy. The general policy initiative offers citizens the opportunity to put their policy ideas before the voters, but offers legislatures more flexibility in implementing voter-mandated policy than does the initiative process currently offered in 24 states.

Recommendation 1.1(B): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, as an alternative to the advisory initiative, states should consider adopting the general policy initiative.

The Indirect Initiative

The indirect initiative is frequently offered as an improvement over the direct initiative because it allows for legislative analysis, committee hearings and floor debate. Legislative deliberation and debate on the issue itself and its effect on other existing policies may result in an improved initiative proposal because unintended consequences and errors may come to light.

Pitfalls exist in the indirect initiative process, however, which prevent it from being a panacea to the problems of the initiative. The main argument against the indirect initiative is that, where the process is currently offered, legislatures rarely take up the initiative proposal and, when they do, they almost always reject initiative proposals. Rarely do they engage in negotiation with initiative proponents and seek to craft a compromise. Most often, indirect initiatives are rejected by the legislature and end up on the ballot for a popular vote; the indirect process has done little but protract the initiative process.

In spite of its pitfalls, the indirect initiative process is more desirable than the direct initiative process because it allows for more public debate and deliberation, and it involves the legislature, with its professional research and bill drafting staff, in the process.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Eight states currently offer an indirect initiative process. In the indirect initiative process, a proposed initiative is referred to the legislature after proponents have gathered the required number of signatures. The legislature has the option to enact, defeat or amend the measure. Depending on the legislature's action, the proponents may continue to pursue placement on the ballot for a popular vote. In three states (Massachusetts, Ohio and Utah), proponents must gather additional signatures to place the measure on the ballot; in the others, it automatically goes to the ballot.

	Constitutional Amendments	Statutory Initiatives
Maine		✓
Massachusetts	✓	✓
Michigan		✓
Mississippi	✓	
Nevada		✓
Ohio		✓
Utah*		✓
Washington*		✓

*State also has a direct initiative process; proponents may select the direct or indirect route.
 Note that the table does not represent all forms of the initiative process available in each state; only the indirect processes are represented.
 Source: National Conference of State Legislatures, January 2002.

In several states (Maine, Massachusetts, Michigan, Nevada and Washington), it is specifically provided for in law that the legislature may place an alternate proposition on the ballot with the initiative. Voters may vote for one or the other or for neither.

Alaska's and Wyoming's initiative processes are sometimes cited as indirect. However, instead of requiring that an initiative be submitted to the legislature for action, they require only that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned, thus providing the legislature with the opportunity to address the issue if it so chooses.

Two states—Utah and Washington—offer both the direct and indirect initiative process; proponents have the option of choosing either. In Utah, the initial signature requirement is lower for the indirect process. This serves as an incentive to proponents to choose the indirect route and thus incorporate the legislature into the process. Qualifying an initiative directly to the ballot requires signatures equal to 10 percent of the votes cast for governor in the last election; presenting an indirect initiative to the Legislature requires signatures equal to 5 percent of the votes cast for governor in the last election. However, if the indirect initiative is rejected by the Legislature, proponents must gather additional signatures equal to 10 percent of the votes cast for governor, creating a total signature threshold for indirect initiatives that is higher than that for direct initiatives. As a consequence, use of Utah's indirect initiative is significantly lower than use of the direct method.

California had an indirect initiative process until 1966. It was available in addition to the direct process, and proponents were permitted to choose the process they would use. The indirect option was rarely used, and voters approved its abolition in 1966.

Nevada currently has an indirect process for statutory initiatives. At one time, it also had the indirect process for initiative constitutional amendments, but it abolished this option in 1962. Voters approved a constitutional amendment referred by the Legislature that abolished the indirect process for constitutional amendments and at the same time imposed the requirement that any constitutional amendment be approved by a majority vote in two successive elections.

Adopting an indirect initiative process has been suggested as a significant reform by the following individuals and groups.

Professor Joseph Zimmerman, SUNY-Albany (in testimony before the task force in February 2002),

Speaker's Commission on the California Initiative Process (2002),

David Broder, *Washington Post* (in testimony before the task force on Dec. 7, 2001),

Dane Waters, I&R Institute (in testimony before the task force on Dec. 8, 2001),

California League of Women Voters (1999),

City Club of Portland, Oregon (1996),

Citizens' Commission on Ballot Initiatives (California, 1994),

Florida's Citizen Initiative Process Report (1994), and

California Commission on Campaign Financing (1992).

Case Studies: The Indirect Initiative

Switzerland

Switzerland's initiative process, which has long been cited as a model of a successful initiative process and heavily influenced the early development of the initiative in the United States, is an indirect process. When an initiative is submitted to the legislature in a Swiss canton, the legislature has four years to deliberate and act on the measure before it is referred to the ballot. When it does go to the ballot, the legislature often submits a statement of its position on the measure and has the option of placing a competing measure on the ballot. Most important, however, is the fact that many initiatives are withdrawn from the legislature before they reach the ballot. According to Richard Ellis in *Democratic Delusions: The Initiative Process in America*, the most common reason for this is that the legislature has promised or taken action that satisfies the proponents. Ellis writes that:

"The initiative in Switzerland is thus an integral part of the legislative process and is often used as a spur to get a majority in the legislature to heed the concerns of minority groups that have previously been thwarted in the assembly. Unlike in the United States, where the initiative process is a badly confrontational, zero-sum game, in Switzerland it is often employed to arrive at a consensus by facilitating legislative deliberation and compromise."¹

Massachusetts

The indirect initiative process used for constitutional amendments in Massachusetts is unique because a citizen-initiated constitutional amendment cannot gain ballot access without first passing the legislature. An initiated constitutional amendment must be approved in two consecutive legislative sessions before it can go on the ballot. In the first session, it may be amended by the legislature with a three-fourths vote, and must be approved by one-fourth of the legislature in a joint session in order to advance to the second legislative session. In the second session, the proposal must again be approved by one-fourth of the legislature in a joint session in order to advance to the ballot. The legislature may not amend the proposal at this point in the process, but it may place a substitute measure on the ballot together with the initiative proposal. Few initiated constitutional amendments survive this process and ultimately land on the ballot (three in the history of the state), but many initiatives that fail to pass the legislature and advance to the ballot succeed in prodding the legislature to take action on the issue.

The process for statutory initiatives in Massachusetts, although still indirect, is less rigorous than the process for constitutional initiatives. A statutory initiative must be

heard by the committee to which it is referred, and the committee must issue a report. If the legislature fails to enact the proposal, proponents may gather a small number of additional signatures to place it on the ballot. The legislature may place its own substitute proposal on the ballot together with the initiative proposal.

The advantages of the Massachusetts indirect initiative are that 1) the legislature is incorporated into the process, resulting in public consideration and debate, and 2) it gives the legislature the opportunity and an adequate period of time to respond to a proposal presented in an initiative. By making the constitutional process more difficult to use, it also directs more proposals toward the statutory initiative instead of the constitutional initiative. Its disadvantage is that it allows the legislature to block an initiative constitutional amendment from reaching the ballot, something that initiative advocates find too restrictive.

1. Richard Ellis, *Democratic Delusions: The Initiative Process in America* (Lawrence, Kan.: University Press of Kansas, 2002, 140-1.

Initiated Statutes vs. Constitutional Amendments

Constitutions are the foundations of state laws and governments. They are sacrosanct and should not be amended hastily or at the whim of a narrow segment of society. In offering an initiative constitutional amendment process, a state runs the risk of accumulating material in its constitution that is statutory in nature, since initiative proponents are left with no other tool to initiate policy.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Offering a statutory initiative process in addition to a constitutional amendment initiative process also can help avoid this problem. Some initiative proponents will choose the statutory process if it is available to them, especially if incentives are offered to encourage the use of the statutory process over the constitutional process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Other Ideas for Reform

Limits on the Legislature's Power to Amend and Repeal Initiated Statutes

Limiting the legislature's power to amend and/or repeal a statute enacted through the initiative may be an incentive to encourage the use of the statutory initiative over the constitutional initiative. Very often, initiative proponents elect to use the constitutional initiative in order to prevent the legislature from amending or repealing their proposal. If proponents were assured that the legislature's ability to amend and/or repeal statutory initiatives was limited, perhaps they would be more inclined to avail themselves of the statutory initiative process.

Currently, the legislature's power to amend and/or repeal a statute passed by the initiative is restricted in 10 states, and in California, it is expressly prohibited. In these states, a supermajority vote of the legislature is required to amend or repeal an initiated measure, or the legislature may be prohibited from acting on an initiated measure for a specified period of time. In the other 14 states, the legislature is free to amend or repeal an initiated measure at any time.

Table 2. Legislative Amendment and Repeal of Initiated Measures

	Restriction
Alaska	No repeal within two years; amendment by majority vote anytime
Arizona	No repeal; 3/4 vote to amend; amending legislation must "further the purpose" of the measure
Arkansas	2/3 vote of the members of each house to amend or repeal
California	No amendment or repeal of an initiative statute by the Legislature unless the initiative specifically permits it
Michigan	3/4 vote to amend or repeal
Nevada	No amendment or repeal within three years of enactment
North Dakota	2/3 vote required to amend or repeal within seven years of effective date
Oregon	2/3 vote required to amend or repeal within two years of enactment
Washington	2/3 vote required to amend or repeal within two years of enactment
Wyoming	No repeal within two years of effective date; amendment by majority vote any time

Source: National Conference of State Legislatures, January 2002.

Recent Legislative Action

In the period of 1999-2002, 17 non-initiative states saw legislation proposing the adoption of an initiative process. In Minnesota, an initiative bill passed the House twice in recent years. In fact, Minnesota voters have voted against adopting the initiative three times since 1913. However, the vote has been close, and the idea of adopting the initiative process continues to have strong support in Minnesota. In New York, Governor Pataki urged the adoption of the initiative in his 2002 state-of-the-state address. Several initiative bills currently are pending in the New York Legislature, one of which has passed the Senate.

Florida, which has had an initiative process for constitutional amendments since 1972, considered a bill in 2002 that would have provided for citizen initiatives to amend the statutes, as well. The bill would have modified the constitutional initiative process at the same time, changing the vote requirement from a simple majority to a two-thirds vote and requiring economic impact statements for all initiatives. The bill passed the House but failed to pass the Senate.

- A failed 2001 bill in Arizona would have created an eight-member Citizen Ballot Measure Committee and transferred the responsibility for drafting analyses of initiative proposals from the Legislative Council to the new committee. The committee members would have been appointed by the House and Senate majority and minority leadership.

5. THE SIGNATURE GATHERING PHASE

Overview

Signature gathering is the most fundamental part of the initiative process, and the most thoroughly populist and grassroots part. The purpose of signature requirements is to demonstrate that an initiative has a certain level of public support before it goes to the ballot.

Statement of Organization

In some states, the campaign finance disclosure requirements do not take effect until a petition is qualified for the ballot. The task force believes that the money spent earlier in the process, particularly the money and sources of money spent on gathering signatures, is of equal importance to money spent on campaigning. Citizens should have access to information about who is circulating a petition before they decide to sign it.

Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Fraud in the Signature Gathering Process

Paid vs. Volunteer Petitioners

Professional signature gathering has long been a part of initiative politics. Paid signature gatherers were common in both California and Oregon in the early 1900s. Banning paid signature gatherers, an early idea, was seen as a way to stop wealthy individuals or groups from buying their way onto the ballot. Ohio, South Dakota and Washington passed bans on paid signature gatherers in 1913 and 1914. Oregon passed a ban in 1935, Colorado in 1941, and Idaho and Nebraska in 1988. Until the 1980s,

Recommendations

Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Recommendation 5.2: States should provide for safeguards against fraud during the signature-gathering process. Safeguards should include:

- A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
- B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that, to the best of the circulator's knowledge, the signatures are valid.
- C. Requiring circulators to disclose whether they are paid or volunteer.

Recommendation 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Recommendation 5.5: States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

courts upheld bans on paid signature gatherers. That changed in 1988, when the U.S. Supreme Court invalidated Colorado's ban in the *Meyer vs. Grant*, 486 U.S. 414 (1988) decision.

Five states—Maine, Mississippi, North Dakota, Washington and Wyoming—tried to ban payment per signature, but to permit payment on a salary or hourly basis. All but North Dakota's and Wyoming's have been invalidated by courts.

Today, the vast majority of petition campaigns use paid circulators, who are paid between \$1 and \$3 per signature. Very few campaigns attempt to qualify an initiative petition with volunteer circulators, and even fewer do so successfully. Paid drives, on the other hand, are much more successful. A campaign that has adequate funds to pay circulators has a nearly 100 percent chance of qualifying for the ballot in many states.

The increase in reliance on paid circulators has increased the cost of qualifying an initiative. In California, it now costs more than \$1 million. In Oregon, costs for qualifying ballot measures for the 2000 election ranged from \$65,000 to \$400,000, with most spending in the neighborhood of \$100,000 to \$150,000. Average costs in other states generally range between \$70,000 and \$100,000.

Oregon has tried a new idea for regulating paid circulators. The state defines paid circulators as employees (in other states they generally are defined as independent contractors), making them eligible for unemployment benefits. Signature collection firms now must pay payroll taxes and unemployment insurance premiums and must meet minimum wage requirements.

The U.S. Supreme Court's opinions on petition circulators have made the prevention of fraud in the signature gathering process very difficult for states. Since the 1988 *Meyer vs. Grant* decision invalidated state bans on paid signature gatherers, it has become more difficult to regulate the signature gathering process. The argument that payment for signatures promotes fraud has met with mixed reactions in courts around the country. A federal judge in North Dakota agreed, and upheld North Dakota's ban on payment-per-signature (hourly or salaried payments are permissible in North Dakota). Federal judges in Maine and Washington, however, disagreed, and found no evidence of fraud among paid signature gatherers. A more worthy argument that is less often cited is that prohibiting payment for signatures protects the integrity of the initiative process by encouraging grassroots efforts that can succeed on nothing more than popular support and discourages signature gathering efforts that can succeed only with large sums of money. Nevertheless, the U.S. Supreme Court has removed the ban on paid signature gatherers from initiative reformers' agendas.

Registered Voter and Residency Requirements

In 1999, the U.S. Supreme Court struck down a Colorado law stipulating that only Colorado registered voters could circulate initiative petitions in *Victoria Buckley vs. American Constitutional Law Foundation*, 119 S. Ct. 636 (1999). Colorado argued that it should be able to limit the ability to circulate petitions to those who are also qualified to vote on them. At least 13 other states were affected by *Buckley vs. ACLF* because they had similar laws. Other states, including Mississippi, North Dakota and Oklahoma, require that circulators be residents of the state. Many of the states that previously had registered voter requirements changed their laws to require that circulators be residents, including Arizona, California, Idaho, Maine, Missouri, Utah and Wyoming. This requirement has fared bet-

ter in the courts than the registered voter requirement, with federal courts upholding Maine's and Mississippi's residency requirements.

If states cannot ban paid signature gatherers and they cannot require that signature gatherers be registered voters in the state, what can they do to ensure the integrity of the petition process and protect it from fraud? They can enact laws that specifically address and prohibit clear instances of fraud in the petition process.

Recommendation 5.2: States should provide for safeguards against fraud during the signature-gathering process. Safeguards should include:

- A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
- B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that, to the best of the circulator's knowledge, the signatures are valid.
- C. Requiring circulators to disclose whether they are paid or volunteer.

At least 10 states prohibit the giving or accepting of money or anything else of value to sign or not sign a petition. Those states are:

Arizona	Mississippi
California	Nebraska
Colorado	Ohio
Idaho	Washington
Maine	Wyoming

Sixteen states currently require that petition circulators witness the placing of signatures on the petition, and that they sign an oath affirming that to the best of their knowledge, each signature is valid. Such an oath can discourage the kind of fraud some states have witnessed. For example, in 1998 in Arkansas, it was discovered that a circulator had forged several hundred signatures on a petition to do away with property taxes. Other circulators turned in petitions with signatures they had not witnessed, thus invalidating those signatures. The petition eventually was stricken from the ballot after numerous instances of fraud in the petitioning process were proven.

At least 10 states currently require circulators to disclose whether they are paid or volunteer, most often on the petition form itself.

	Where Disclosed
Alaska	On the petition
Arizona	On the petition
Colorado	On a name tag
Idaho	On the petition
Missouri	Must file a form with the Secretary of State
Nebraska	On the petition
North Dakota	Disclosed on registration form filed with the Secretary of State
Ohio	On the Circulator's Compensation Statement (part of the petition)
Oregon	On the petition
Wyoming	On the petition

Source: National Conference of State Legislatures, February 2002.

Circulation Periods

In most states, petitioners have a limited period of time during which to gather the requisite signatures. The limits range from 60 days (Massachusetts) to four years (Florida). In 17 of the 24 initiative states, circulators have a year or more to gather signatures. In Arkansas, Ohio and Utah, no time limits are set for circulating petitions. Table 11 summarizes circulation periods in the initiative states.

	Circulation Period	Submission Deadline
Alaska	1 year	Prior to the date the Legislature convenes (January)
Arizona	2 years	120 days before the election
Arkansas	Unlimited	120 days before the election
California	150 days	150 days after issuance of official summary; will be placed on the ballot in the next election that is at least 131 days after it is submitted
Colorado	6 months	3 months before the election
Florida	4 years	91 days before the general election
Idaho	18 months or until April 30 in an election year, whichever occurs earlier	May 1 in the year an election on the initiative will be held, or 18 months from the date the petitioner receives the official ballot title from the Secretary of State, whichever is earlier
Illinois	2 years	
Maine	1 year	On or before the 50 th day after the convening of the Legislature in first regular session; on or before the 25 th day after the date of convening of the Legislature in the second regular session
Massachusetts	60 days to submit to legislature; 42 days if legislature fails to act	14 days before the first Wednesday in December
Michigan	180 days	Constitutional: 120 days before the election Statutory: 10 days before beginning of a legislative session
Mississippi	1 year	90 days before the first day of the legislative session
Missouri	18 months	6 months prior to the date of the next regular election
Montana	1 year	By the third Friday of the fourth month preceding the election
Nebraska	2 years	4 months prior to the general election
Nevada	Constitutional: 291 days Statutory: 316 days	Constitutional: third Tuesday in June of an even-numbered year Statutory: second Tuesday in November of an even-numbered year
North Dakota	1 year	90 days before the election
Ohio	Unlimited	Constitutional: 90 days prior to the general election Statutory: 10 days prior to legislative session
Oklahoma	90 days	60 days prior to the date of the next general election
Oregon	2 years	120 days prior to the general election
South Dakota	1 year	Constitutional: 1 year before the next general election Statutory: first Tuesday in May in a general election year
Utah	Unlimited	Before June 1
Washington	Direct: 6 months Indirect: 10 months	Direct: 4 months prior to the next state general election Indirect: 10 days before the regular session of the Legislature
Wyoming	18 months	Prior to the date the Legislature convenes for a regular session

Source: National Conference of State Legislatures, May 2002.

Interestingly, longer circulation periods do not necessarily lead to an increased number of initiatives on the ballot. Some of the states with the longest circulation periods—such as Florida and Illinois—have very few measures on the ballot. Some states with the shortest circulation periods—such as California, Colorado and Washington—are among the states with the highest number of initiatives that reach the ballot. Providing more time for gathering signatures, therefore, should not lead to a flood of initiatives on the ballot.

The length of the circulation period is important to volunteer efforts, and increasing the time for gathering signatures may be beneficial. Volunteer efforts are time-consuming because they often are less well-organized and more often are subject to disruptions when volunteers fail to show up. Longer circulation periods clearly benefit volunteer petition drives.

Recommendations 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Crafting an appropriate limit on circulation periods is a delicate task. If the period is too short, volunteer efforts will be disadvantaged. However, if the period is too long, there is a risk that voters may have moved between the time they signed the petition and the time it is submitted for verification, thus resulting in a higher percentage of invalid signatures.

Signature Requirements

State signature requirements for ballot access vary widely. Signature requirements usually are based on a percentage of votes cast for a particular office—most often the office of governor—in the most recent election. In a few states, the requirement is based on total votes cast, total registered voters, or total state residents.

In most states that have both a statutory and constitutional initiative process, there is a higher signature threshold to qualify a constitutional initiative. The only exceptions are Colorado, Massachusetts and Nevada. The distinction exists because it is widely believed that amending the constitution should be more difficult than amending the statutes. Some reformers, however, argue that a more effective manner of achieving this goal would be to require a higher vote to approve constitutional initiatives than statutory initiatives. This argument is supported by the fact that the higher signature threshold for constitutional initiatives is rarely a barrier to achieving ballot status, provided proponents have ample funds to pay signature gatherers. Nevertheless, it is the belief of this task force that the sanctity of state constitutions demands that constitutional amendments be held to a higher standard of popular support than statutory initiatives, including signature thresholds for ballot access.

Recommendation 5.5 States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Percentage requirements for signatures on statutory initiatives range from a low of 2 percent of the resident population in North Dakota (12,844 for 2002 ballot access), to a high

of 15 percent of the total number of votes cast in the preceding election in Wyoming (33,253 signatures for 2002 ballot access). However, because Wyoming is a small population state, there are other states where the actual number of signatures that must be gathered is higher. The highest actual signature requirement for 2002 ballot access is California, where 419,260 signatures are required to place a statutory initiative on the 2002 ballot (equal to 5 percent of the votes cast for governor in the last election).

Percentage requirements for signatures on constitutional amendments range from a low of 3 percent of total votes cast for governor in Massachusetts (57,100 for 2002 ballot access), to a high of 15 percent of total votes cast for governor in Arizona (152,643 for 2002 ballot access) and Oklahoma (185,145 for 2002 ballot access). Once again, however, thanks to its large population, California has the highest total actual signature requirement for 2002 ballot access at 670,816 (equal to 8 percent of the votes cast for governor in the last election).

Geographic Distribution: Requirements

Many initiative states are primarily rural, with a substantial proportion of their populations centered in a few urban areas. In states that follow this population pattern but that lack a geographic distribution requirement for signatures, it is not only possible but common for initiative proponents to gather all their signatures in the state's largest city. The voters in the largest city, therefore, may decide for the state as a whole what issues make the ballot and what issues do not. Such a system gives urban voters an unfair advantage over rural voters.

Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Thirteen of the 24 initiative states currently require that signatures be gathered from around the state. Supporters of geographic distribution requirements say they are important because they force initiative proponents to demonstrate that their proposal has support statewide, not just among the citizens of the state's most populous region. Critics say geographic distribution requirements place an unfair burden on initiative proponents, since it is much more difficult to gather signatures in rural areas than it is in urban areas. They also claim that such requirements mean that fewer initiatives qualify for the ballot.

Polling data suggests that voters generally support the idea of requiring initiative proponents to gather their signatures from various parts of the state. In fact, as recently as 1998, voters in Wyoming approved of a legislative proposal to make that state's geographic distribution requirement even more restrictive. A February 1995 poll conducted by the City Club of Portland showed that Oregon voters also supported a geographic distribution requirement. The fact that they later rejected a 2000 constitutional amendment on this very issue may reflect their dissatisfaction with the stringency of that particular proposal, rather than a drop-off in support for the general idea of geographic distribution requirements.

It should be noted that Idaho's geographic distribution requirement was held unconstitutional by a U.S. District Court in December 2001. In addition to a total number of signatures equal to 6 percent of the state's registered voters at the time of the last general election, proponents had to gather signatures from 6 percent of the registered voters in 22 of the state's 44 counties. The decision currently is on appeal in the 9th U.S. Circuit of Appeals, and it is unclear at this time whether this decision, if upheld, would affect geo-

graphic distribution requirements in other states. The 9th Circuit includes Montana and Nevada, which also have geographic distribution requirements.

Tables 12 and 13 summarize the signature requirements for statutory and constitutional initiatives, including geographic distribution requirements.

Table 12. Signature Requirements—Statutory Initiatives			
	Statutory Initiatives		
	Signatures	2002 Actual Requirement	Geographic Distribution
Alaska	10% of total votes cast in last general election	22,716	At least one signature by voters resident in each of at least 2/3 of 27 election districts
Arizona	10% of votes cast for governor in last election	101,752	None
Arkansas	8% of votes cast for governor in last election	56,481	Signatures from 4% of registered voters from at least 15 of 75 counties
California	5% of votes cast for governor in last election	419,260	None
Colorado	5% of votes cast for sec. state in last election	80,571	None
Florida	N/A		
Idaho	6% of qualified electors in previous election	43,685	6% of registered voters from each of 22 counties*
Illinois	N/A		
Maine	10% of votes cast for governor in last election	42,101	None
Massachusetts	3% of votes cast for governor in last election	57,100	No more than 25% of signatures may be from one county
Michigan	8% of votes cast for governor in last election	242,168	None
Mississippi	N/A		
Missouri	5% of votes cast for governor in last election	117,342	5% of votes cast for governor in last election from 6 of the 9 congressional districts
Montana	5% of qualified electors in state at large	20,510	At least 5% of voters in at least 34 of the 100 legislative districts
Nebraska	7% of registered voters at the filing deadline	75,969	5% of registered voters in 38 of the 93 counties
Nevada	10% of total votes cast in last general election	61,336	10% of total votes cast in the last general election from at least 13 of the 17 counties
North Dakota	2% of resident population of the state	12,844	None
Ohio	3% of votes cast for governor in last election	100,626	1.5% of total vote cast for governor in last election from 44 of the state's 88 counties
Oklahoma	8% of votes cast in last state election for the office receiving the highest number of votes	98,744	None
Oregon	6% of votes cast for governor in last election	66,786	None
South Dakota	5% of votes cast for governor in last election	13,010	None
Utah	Direct: 10% / Indirect: 5% of votes cast for governor in last election	Direct: 78,458 Indirect: 39,229	Direct: 10% / Indirect: 5% of votes cast in at least 20 of the counties
Washington	8% of votes cast for governor in last election	197,734	None
Wyoming	15% of total votes cast in last general election	33,253	15% of residents in at least 2/3 of the state's 23 counties

* Held unconstitutional by U.S. District Court in December 2001; pending appeal in the 9th U.S. Circuit Court of Appeals.
Source: National Conference of State Legislatures, January 2002.

Table 13. Signature Requirements—Initiated Constitutional Amendments			
	Constitutional Initiatives		
	Signatures	2002 Actual Requirement	Geographic Distribution
Alaska		N/A	
Arizona	15% of votes cast for governor in last election	152,643	None
Arkansas	10% of votes cast for governor in last election	70,601	Signatures from 5% of registered voters from at least 15 of 75 counties
California	8% of votes cast for governor in last election	670,816	None
Colorado	5% of votes cast for sec. state in last election	80,571	None
Florida	8% of total votes cast statewide in last presidential election	488,722	8% in at least 12 of the state's 23 congressional districts
Idaho		N/A	
Illinois	8% of total votes cast for governor in previous election	268,693	None
Maine		N/A	
Massachusetts	3% of votes cast for governor in last election	57,100	No more than 25% of signatures may be from one county
Michigan	10% of votes cast for governor in last election	302,710	None
Mississippi	12% of votes cast for governor in last election	91,673	No more than 1/5 total signatures from one congressional district
Missouri	8% of votes cast for governor in last election	187,746	8% of votes cast for governor in last election from 6 of the 9 congressional districts
Montana	10% of qualified electors in state at large	41,020	At least 10% of voters in at least 40 of the 100 legislative districts
Nebraska	10% of registered voters at the filing deadline	108,527	5% of registered voters in 38 of the 93 counties
Nevada	10% of total votes cast in last general election	61,336	10% of total votes cast in the last general election from at least 13 of the 17 counties
North Dakota	4% of resident population of the state	25,688	None
Ohio	10% of votes cast for governor in last election	335,421	None
Oklahoma	15% of votes cast in last state election for the office receiving the highest number of votes	185,145	None
Oregon	8% of votes cast for governor in last election	89,048	None
South Dakota	10% of votes cast for governor in last election	26,019	None
Utah		N/A	
Washington		N/A	
Wyoming		N/A	

Source: National Conference of State Legislatures, January 2002

Verifying Signatures

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

States use various methods to verify the number of valid and correct signatures gathered on a petition, and vary in whether signatures are checked at the state or county/local level. In 15 states, verification is conducted by the state's chief election official. In nine states, it is done at the county level and forwarded to the appropriate state official.

The second major area of variation is whether validation is accomplished by counting or verifying each signature or by employing a random sampling formula. Ten states verify signatures using a random sampling method. It is most common in states that use a random sample method that at least 5 percent of the signatures gathered be verified. In Montana, county officials verify all names and signatures and then randomly select signatures to be checked against voter registration records.

North Dakota and Ohio are unique. Since North Dakota does not have voter registration, sponsors must collect signatures of people who legally reside in the state. The Secretary of State is responsible for conducting a representative sampling of signatures using postcards, phone calls and other methods to verify residency. In Ohio, signatures are presumed valid unless otherwise proven. Anyone may file with the board of elections challenging the validity of any signature(s). If a sponsor does not have enough signatures after filing the petition with the Secretary of State, the sponsor is allowed 10 additional days to collect the correct number of signatures.

The timeframe for verifying signatures averages about one month. Most states allow petitioners to observe the verification process. In Arkansas and Ohio, if a petition does not have the required number of valid signatures, an additional time period (30 days in Arkansas and 10 days in Ohio) is allowed to gather the remaining signatures. Most states, however, automatically disqualify a proposed initiative if it does not have enough valid signatures.

Table 14 summarizes the various methods of verifying signatures on initiative petitions.

Table 14. Method of Signature Verification	
	Method of Signature Verification
Alaska	Actual; signatures are verified by Lt. Governor until correct number is met
Arizona	Random; 5% of total number of signatures must be verified by county recorders with equal chances for any signature to be chosen
Arkansas	Actual; signatures are verified by the Secretary of State's office, which may contract with various county clerks for assistance
California	Random; Secretary of State verifies total number of signatures, county election officials then conduct random sampling; required to verify 500 signatures or 3% of signatures filed, whichever is greater
Colorado	Random; at least 5% or 4,000 signatures must be verified by Secretary of State
Florida	Actual; every signature is checked by Supervisor of Elections of each county; sponsor must pay \$0.10 for each signature checked or the actual cost of checking the signatures to supervisor at the time the petition is submitted; if the sponsor is unable to pay, a statement of undue burden given under oath must be submitted; a sponsor using paid signature gatherers may not submit statement
Idaho	Actual; county clerk verifies each signature, then files petition with Secretary of State
Illinois	Random and actual; state Board of Elections conducts random sampling of signatures and then transmits list to county election officials for individual verification; sampling must include: 10% of the signatures if 5,010 or more signatures are involved; or 500 signatures if more than 500 but less than 5,010 signatures are involved; or all signatures if 500 or less signatures are involved
Maine	Actual; Secretary of State verifies every signature

Table 14. Method of Signature Verification (continued)

	Method of Signature Verification
Massachusetts	Actual; signatures must be verified by a majority (at least three) of the local registrars or election commissioners in the city or town in which the signatures were collected
Michigan	Actual; the board of state canvassers verifies the correct number of signatures and that each signer is a qualified registered voter; the qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers
Mississippi	Actual; county Circuit Clerk of each county where the petition was circulated verifies every signature, then submits the petition to the Secretary of State
Missouri	Actual or random (at discretion of Secretary of State); if random sampling is used, the method is determined by the Secretary of State and shall include examination of 5% of signatures collected
Montana	Actual and random; county official verifies that each signer is a registered voter and also randomly selects signatures to check against voter registration records
Nebraska	Actual; local election officials verify all signatures using voter registration records; Secretary of State double checks total number of valid signatures
Nevada	Actual and random; county clerks/registrars verify the total number of signatures and forward the number to the Secretary of State, who verifies the raw count and, if the total number of signatures is correct, notifies county clerks/registrars to begin verifying each signature; if there are greater than or equal to 500 signatures, clerk/registrar conducts a random sample of 500 or 5% of signatures
North Dakota	Random; since N.D. does not have voter registration, sponsor must collect signatures of residents; Secretary of State then conducts a representative sampling of signatures using post-cards, phone calls, or other methods to verify signatures
Ohio	Signatures are presumed to be valid unless proved otherwise; if more signatures are needed, sponsors are allowed 10 additional days to file signatures
Oklahoma	Actual; Secretary of State counts and verifies every signature
Oregon	Random; Election Division verifies the number of signatures and randomly selects (using a computer-generated report) samples of signatures to send to county election officials for individual verification
South Dakota	Actual; every signature is verified until the minimum number of signatures is reached
Utah	Actual; county clerks verify every signature
Washington	Actual or random (at discretion of Secretary of State); Secretary of State verifies each signature unless the number of signatures filed is substantially in excess of the minimum needed, in which case the Secretary of State may use a random sampling process to verify signatures
Wyoming	Actual; Secretary of State verifies every signature

Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

One suggestion for reform is to decrease the number of signatures needed for qualification. This would reduce the amount of time and money needed to both gather the signatures and to verify them. The task force does not support this reform but, rather, believes that the demonstration of a substantial degree of popular support, represented by signatures on a petition, is an important step in gaining ballot access.

Another suggested reform is to allow petitioners to turn in signatures periodically throughout the circulation phase. This would allow proponents to know how many signatures they still need to gather, and it would help to alleviate the burden of counting a large volume of signatures at one time.

Perhaps the most intriguing suggestion for reforming the signature-gathering process is the establishment of a bifurcated system for signature gathering, such that each signature gathered by a volunteer is worth more than a signature gathered by a paid circulator. Such a

plan would provide an incentive for initiative campaigns to use volunteer circulators, but would not penalize efforts that use paid circulators. An initiative reform task force in Nebraska considered such a plan in 1995, but did not carry it forward due to concerns about its constitutionality. Disagreement exists among scholars as to whether a bifurcated system would pass constitutional muster, and it will be impossible to know for sure until a state adopts it.

Recent Legislative Action

Changing signature requirements, filing deadlines, and regulations on petition circulators were among the most common topics of initiative reform legislation between 1999 and 2002.

- Six states considered changing the filing deadline for initiative petitions. Oregon placed a measure on the March 2000 ballot to change the filing deadline from four months to five months before the election, effectively shortening the circulation period by one month but providing more time for signature verification. Voters passed the measure.
- Thirteen states considered additional regulation of petition circulators. Arizona, California and Idaho established new requirements that petition circulators be state residents. Oregon passed a measure requiring that paid petitioners be identified as such.
- Three states considered bills designed to combat signature fraud.
- Thirteen states looked at changing the number of signatures required to qualify a ballot initiative. None enacted a change.

Subject: testimony 3/25/03 re HB31-Rep.Wms ballot initiative

Date: Tue, 25 Mar 2003 09:09:00 -0900

From: "Richard or Mary Bishop" <rbishop@ptialaska.net>

To: <fran_zarling@legis.state.ak.us>

Mr. Chairman and members of the Committee,

My name is Richard H. Bishop. I live on the outskirts of Fairbanks. I strongly support House Bill 31.

I am a game biologist by training. I retired from ADF&G in 1989 after over 20 years work on game research, management and department administration. Since retirement I have worked in various capacities, mostly with the Alaska Outdoor Council, on fish and wildlife resource issues, including several initiatives.

Initiatives aren't a bad tool when used to protect people's rights. Unfortunately, most initiatives are used to restrict people's rights. Even the founding fathers of this country were wary of the impact of initiative systems on minority rights.

In general, hunters, fishers and trappers are a numerical minority in Alaska. And in general, wildlife initiatives in this state and nation-wide, have promoted restriction of scientifically sound, lawful hunting, trapping and sound state wildlife management.

Rep. Williams' bill, HB31, would help defend against "the tyranny of the majority" by requiring broader representation of Alaskan minorities of all kinds, not just hunters and trappers, in order to put an initiative on the ballot.

Instead of a bad idea being sold by slick advertising to a gullible majority who have no stake in the issue, the idea would have to pass muster with those whose interests are most affected.

HB31 does not ban initiative. But 28 states now do and get along fine. HB31 really says "If you want to use this method of making law, you'd better have an idea that helps people - not hurts them...or it just won't fly."

Initiatives on wildlife issues are widely condemned by professional fish and wildlife biologists in Alaska and across the U.S. because they've proven a poor substitute for the legal framework developed over the last 100 years for managing fish and game.

With wildlife, it's easy to sell a bad idea with great--and often misleading--advertising. People mostly like wildlife, and mostly don't like to bother checking out the facts. So they react to the emotional appeal of a ballot campaign.

Alaska has an outstanding legal framework for fish and game management - consisting of the local advisory committees, the Board of Fisheries, the Board of Game and the Legislature, all working together with ADF&G professionals. The initiative process, as used by anti-hunters is an "end run" around the system.

MAR-25-03 TUE 12:40 PM REP WEYHRAUCH

FAX NO. 465 2273

P. 03

MAR-25-03 TUE 12:49 PM FBX LEGIS INFORMATION
COMMUNITY DEVELOPMENT - REP. WYHRAUCH INITIATIVE

FAX NO. 8074563346

P. 03

HB31 would improve the working climate of this commendable system. It would be harder to undermine the system through initiatives that are not based on sound scientific management-- initiatives that penalize rather than promote the interests of Alaska's fishers, hunters and trappers-- through the "tyranny of the majority".

Thank you for taking my testimony.



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd. #202, Anchorage, Alaska 98503 • (907) 563-9228 • FAX: (907) 563-9225 • www.alaskaminers.org

March 13, 2003

MAR 14 2003

Honorable Bruce Weyhrauch
Chairman
House State Affairs Committee
Capitol Building
Juneau, AK 99801

RE: HB-31, Relating to Initiative and Referendum Petitions

Dear Representative Weyhrauch,

I am writing in support of House Bill 31. This bill will make minor but important changes to the requirements for placing initiatives and referendum petitions on the ballot.

In recent years groups opposing mining, hunting, trapping, etc. have used initiative petitions in several states to place items on ballots. These groups are funded in large part by private non-profit foundations. Their strategy appears to be one of finding an issue that, on the surface, has emotional appeal to the public. They then arrange funding through the foundations to fight the issue. Often times the issues being attacked have rather small unorganized constituencies and who cannot muster sufficient funding to tell the other side of the story to the public and as a result the initiative passes.

By increasing the number of voting districts where signatures must be raised, HB-31 would make it slightly more difficult for these special interest groups to bring issues to the ballot. This is especially important for Alaska where remote and rural areas often have a very limited voice in the Legislature due to their small population.

We support passage of HB-31 and urge that it be passed out of Committee at the earliest date.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Honorable Bill Williams

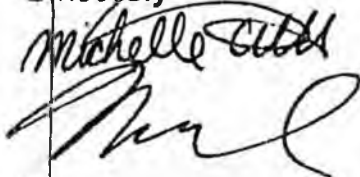
January 13, 2003

TO: Senator Ben Stevens
Representative Lesil McGuire

Good Morning:

We are writing to register our opposition to House Joint Resolution 5 and House Bill 31 which will place new restrictions on the citizens' right to petition the government. The citizen's right to initiative is a basic American right and should be expanded not restricted. The government should do all things possible to encourage citizen participation for it is thru citizen participation that good government is created. These bills do not improve government, they only restrict the citizen's right to redress. When and if these resolutions come before you for your consideration please consider the citizens of Alaska and vote no.

Sincerely



Michael and Michelle Citti
4641 Edinburgh Drive
Anchorage, Alaska 99502
(907) 243-2990 Home
(907) 344-0302 Office

CC: Representative Bill Williams

465-5241

2/23/04

To: Senate Judiciary
From: Mary Bishop

HUR 5
HB 31

Please support measures that make it more difficult to put initiatives on the ballot for public vote.

I don't want Alaska to follow the example of California & Oregon. I believe we are a republic as opposed to a "pure democracy" - In a republic the rights of the minority have some protection ~~and~~ the elected representatives of the public will & do spend more time discerning the merits of an issue.

When an issue comes before the public as a ballot measure 3 basic principles become the action driver:

- a) 30-60 second sound bites;
- b) no "truth-in-advertising" required;
- c) whoever has the most money gets the most sound bites.

Please make this a part of the committee record.
Protect the republic -

Mary Bishop

FEB 23, 2004

SEN, RALPH SEEKINS, CHAIR
SENATE JUDICIARY COMMITTEE
ALASKA LEGISLATURE
JUNEAU, AK

DEAR SENATOR SEEKINS:

PLEASE NOTE IN THE COMMITTEE'S INFORMATION
AND RECORD MY SUPPORT FOR HB51 AND
SB51

THE INITIATIVE PROCESS HAS BEEN MISUSED
AS AN "END RUN" AROUND REPRESENTATIVE
DEMOCRACY. THE RESULTS HAVE BEEN SOME
VERY POOR LAWS ENACTED BY THE
"MAJORITY OF THE MOMENT" BASED ON
MISREPRESENTATION IN SENSATIONALIZED
"30 SECOND SOUND BITES".

THIS CONTINUES TO BE A SERIOUS PROBLEM IN
TRYING TO MAINTAIN A SYSTEM OF SOUND
SCIENTIFIC FISH & WILDLIFE MANAGEMENT.
BIOLOGISTS IN ALASKA AND NATIONWIDE OBJECT
TO "BALLOT BOX BIOLOGY".

SINCERELY
Steve Perry, 1525 GUB'S GRIND, FAIRBANKS, AK 99709
PH (907) 455-6151



Alaska State Legislature

Please enter into the record my testimony to the SENATE JUDICIARY
committee name

committee on HB31 & HJR5, dated FEBRUARY 23, 2004
bill/subject

J. PAGES

Signed: ROGER GAY
Testifier
SELF
Representing (Optional)
P.O. BOX 521215 BIG LAKE AK 99652
Mailing Address

Phone Number

This proposed legislation is a bad idea. It is a direct attack on the peoples right to effectively use the initiative process. It will make the process more difficult and more expensive for the petitioners and will have a chilling effect on the peoples present power. You should never do anything to restrict or reduce the peoples ability to participate. This bill should not move out of this committee. It should die right here. There will be no beneficial result to the people or the State if this bill is allowed to move forward.

The Const. of the State of Alaska Art. XI sec 3 only requires two thirds of of the house districts not three/forths. The Const. is the peoples document and the members of the Legislature could devote their time to protecting and defending it, instead of constantly trying to change it when it doesn't conform to their personal views.

In all the years I've been here since 1976 I have never seen so many proposed changes to the Const. put forward by our elected officials. The Const. may not be working for you but it does seem to work for the rest of us. Thank-you



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #202, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alafminers.org

February 27, 2004

Honorable Ralph Seekins
Chairman
Senate Judiciary Committee
Capitol Building
Juneau, AK 99801

RE: HB-31, Relating to Initiative and Referendum Petitions

Dear Senator Seekins,

I am writing in support of House Bill 31. This bill will make minor but important changes to the requirements for placing initiatives and referendum petitions on the ballot.

In recent years groups opposing mining, hunting, trapping, etc. have used initiative petitions in several states to place items on ballots. These groups are funded in large part by private non-profit foundations. Their strategy appears to be one of finding an issue that, on the surface, has emotional appeal to the public. They then arrange funding through the non profit foundations to fight the issue. Often times the issues being attacked have rather small unorganized constituencies and who cannot muster sufficient funding to tell the other side of the story to the public and as a result the initiative passes.

By increasing the number of voting districts where signatures must be raised, HB-31 would make it slightly more difficult for these special interest groups to bring issues to the ballot. This is especially important for Alaska where remote and rural areas often have a very limited voice in the Legislature due to their small population.

We support passage of HB-31 and urge that it be passed out of Committee at the earliest date.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Honorable Bill Williams



Alaska State Legislature

Please enter into the record my testimony to the SENATE JUDICIARY
Committee name

Committee on HB31 HJR 5, dated 3-2-04
Bill/Subject

J. PAGES

Signed: *Roger K. May*
Testifier

Representing (Optional)

Box 521215 Big Lake AK. 99652
Address

907-892-8901
Phone number

To the members of the Senate Judiciary Committee,

My name is Roger Gay. I spoke yesterday on HB 31 and HJR 5. I would like to apologize for the words that you found so immediately offensive, but I can't because those words were first spoken by members of this committee and directed towards Alaskans who had taken the time and effort to participate in their government through the initiative process. You all had a good chuckle at disparaging your constituents but when I redirected your own words towards members of this committee you didn't hesitate to protest against their suitability in discourse. If you expect to be treated with respect then you should set a good example and not accuse others of being disingenuous.

Then one of your members questioned my ability to understand the Constitution, and suggested that only the legislature could amend the Constitution. With all Due respect allow me to direct your attention to some articles that you may have overlooked or disregarded as insignificant.

Art. 1, Sec. 2. All political power is inherent in the people. All government originates with the people, is founded upon their will only,...

Art. 1. Sec. 3. No person is to be denied the enjoyment of any civil or political right...

Art. 1. Sec. 6. The right of the people peaceably to assemble, and to petition the government shall never be abridged.

Art. 1 Sec. 21. The enumeration of rights in this constitution shall not impair or deny others retained by the people.

Art. 11. Sec 1. The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

Art. 12. Sec 5. All public officers, ... shall take ... the following oath... " I do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, ...

Art. 12 Sec. 9. The provisions of this constitution shall be construed to be self executing whenever possible.

Art. 13. Sec 1. Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature.

Article 13 states that "amendments ... may be proposed by ... the legislature. It does not say "shall" or "should" or "may only".

Art.11. Sec. 1. Likewise states that the people **may** propose and enact laws. There is **no implied limitation** as to the type or extent of the laws that may be proposed. And whereas the Constitution is considered the Supreme Law of the Land and is considered to be the peoples document it is only logical that the people would retain jurisdiction over it. All political power is inherent in the people; do you need to ask your lawyers what "All" means? (See Article 1. Section 3, 6 & 21) And if you're wondering, My National Origin is the United States of America and My Creed is the Constitution of the United States wherein it states in the "IX AMENDMENT, The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Respectfully submitted,
ROGER H. GAY

HB

34

STATE OF ALASKA

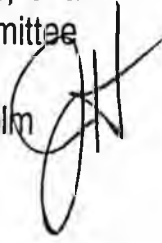
Interim:

119 North Cushman, Rm. 205
Fairbanks, Alaska 99701
(907) 456-7423
Fax: (907) 451-9293

Session:

State Capitol Building
Juneau, Alaska 99801
(907) 465-3466
Fax: (907) 465-2937

REPRESENTATIVE JIM HOLM DISTRICT 9

DATE: April 15, 2003
TO: Senator Ralph Seekins, Chair
Senate Judiciary Committee
FROM: Representative Jim Holm 
RE: HB 34

Please schedule HB 34. REPEAL SUNSET OF NEGOTIATED REGULATION MAKING, for hearing in the Senate Judiciary Committee at your earliest convenience.

Back-up information is attached. It's very important that this bill pass the legislature before the end of this session, so time is critical.

Thank you very much for your help.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

House District 9

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

SPONSOR STATEMENT

3/31/3

House Bill 34

Repealing the Sunset of Negotiated Regulation Making

A process called Negotiated Regulation Making ("Neg-Reg") was authorized in statute in SLA 1998, Ch 117. The original bill, House Bill 264, has a sunset date of July 1, 2003. House Bill 34 repeals that sunset, thus allowing the Neg-Reg process to continue.

Negotiated regulation making is widely supported because it makes the regulation-writing process more applicable to reality. It allows a team of affected, interested parties to negotiate and submit recommendations BEFORE the regulations are published for public review.

Most notable successes to date have been cruise ship regulations and charitable gaming regulations, two extremely contentious issues that were favorably resolved using the negotiated regulation process. Though it does involve some up-front efforts to assemble the negotiating team, it saves far more at the other end of the process by eliminating lawsuits and lengthy public appeals.

Another important advantage is that the affected industries are involved from the beginning so the resulting regulations are far more practical, enforceable, and business-friendly.

Passage of HB 34 before the end of the 2003 legislative session will allow this valuable "Neg-Reg" process to remain in statute.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 34
(H) Publish Date: 3/20/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Office of the Governor
Title An Act relating to negotiated BRU Executive Operations
regulation making Component Lieutenant Governor
Sponsor Representative Holm
Requester House Judiciary Component No. 11

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact on the Office of the Lieutenant Governor.

Prepared by: Linda J. Perez, Director Phone 465-3876
Division Office of the Governor, Administrative Services Date/Time 3/19/03 11:08 AM
Approved by: Annette Kreitzer Date 3/19/2003
Agency Office of the Lieutenant Governor

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 34
(H) Publish Date: 3/20/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Repeal Sunset BRU Administration and Support
of Negotiated Regulation Making Component Commissioner's Office
Sponsor Representative Holm
Requester House Judiciary Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would repeal the July 1, 2003 termination (sunset) date for the statutory authority for negotiated regulation making. This legislation, which would continue the authority for negotiated regulation making, will not have an effect on the operating expenses of the Department of Revenue.

The Tax Division of the Department of Revenue last year used the negotiated regulation making process to draft and adopt new regulations for charitable gaming, and found the process useful and effective.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division Department of Revenue Date/Time 3/19/03 10:37 AM
Approved by: Larry Persily, Deputy Commissioner Date 3/19/2003
Agency Department of Revenue

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Alaska Department of Environmental Conservation

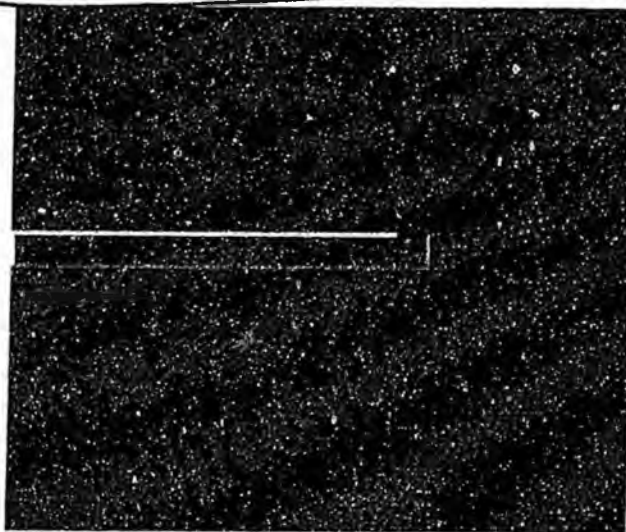


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Alaska Department of Environmental Conservation

Cruise Ship Waste Disposal and Management

*** Negotiated Regulations**



Final Regulations

MS Word Adobe PDF

18 AAC 15 Administrative Procedures (MS Word 139KB, Adobe PDF 154KB)

Dear Interested Party Letter

Analytical Testing Methods for the Commercial Passenger Vessel Environmental Compliance Program

Final Report of the Commercial Passenger Vessel Environmental Compliance (CPVEC) Committee

Environmental Compliance Committee Meeting
January 22-23, 2002

Environmental Compliance Committee Meeting
February 26-27, 2002

Environmental Compliance Committee Meeting
April 5, 2002

Negotiated Regulations Committee

Reports available

Ms. Ernesta Ballard
Ballard & Associates

Mr. Mark Buggins, Environmental Superintendent
City and Borough of Sitka

Gershon Cohen, Phd
Alaska Conservation Alliance

Mr. W. David Eley, President
Cape Decision International Services, Inc.

Mr. Loren Gerhard, Executive Director
Southeast Conference

Lieutenant Wade Gilpin
Waterways Management Coordinator
17th U.S. Coast Guard District

Mr. Paul Johnsen, Senior Port Engineer
Alaska Marine Highway System

Alternate: Mr. Tom C
AMHS - Ketchikan

Alternate: George Po
AMHS - Juneau

Ms. Gretchen Keiser, Wastewater Program Manager
AK Dept. of Environmental Conservation

Mr. Randy Ray, President
US Cruise Ship Association

Mr. Robert Reges
Cruise Control, Juneau
Mr. Reggie Ward
Tlingit & Haida Central Council

CPVEC Committee Consultants
Project Manager

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Ms. Vivian Kinnaird
Ecology & Environment, Inc

Facilitator:
Mr. Brian Rogers
Info Insights, Inc

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State of Alaska

Department of Revenue

Tax Division

Gaming Group



ANNUAL REPORT

Calendar Year 2001

Issued December 2002

Alaska Department of Revenue

Tax Division

Dan E. Dickinson, Director

Larry E. Meyers, Deputy Director

PO Box 110420

Juneau, AK 99811-0420

Phone: (907) 465-2320

Fax: (907) 465-3098

Home page: <http://www.tax.state.ak.us/>

Division Concerns and Focus

Alaska's gaming laws limit the amount of expenses that may be incurred under a gaming permit to ensure that permit holders receive at least a minimum financial benefit from their gaming activities. Beginning in 1998 the Division's focus has been on compliance with the expense limitations and minimum profit distributions.

The Department of Revenue, with the assistance of the Department of Law, has committed substantial resources to bring into compliance the activities of Multiple-Beneficiary Permit holders (MBPs). The first step in this process was to ensure that MBPs complied with minimum distribution requirements. In 1997, MBPs failed to meet their statutorily required payment distributions by \$850,000. With a concerted effort, the Division was able to increase compliance on payment so that there were no MBP deficits in 2001.

The second step in the process focused on ensuring that MBPs not only met the minimum distributions, but also adhered to authorized expense limitations provided by statute. With the increased enforcement, one MBP ceased operations and two others agreed to suspend operations for a year as a result of being out of compliance in 1999.

MBP gaming activities in 2000 and 2001 appeared to meet the minimum requirements as set out in the statutes, with one exception. The MBP that did not meet the minimums later agreed to dedicate a certain percentage of its net proceeds over a period of two years to the Alaska Children's Trust. The Division still remains concerned whether the amount of proceeds received by some qualified organizations is sufficient. The Division, along with the Department of Law, is working to ensure that only bona fide expenses reasonably necessary to conduct gaming activities are allowed. The focus has been, and will continue to be, directed toward excessive rents, compensation and fees charged in conjunction with running or managing gaming operations.

* In 2001, the Division proposed regulations and held public hearings in an effort to address various issues including unlicensed operators, conflicts of interest, methods of accounting, capital contributions, loans and gifts, and rules for MBPs. The comments received during the public hearing process indicated unhappiness with the process and confusion with the proposed regulations. As a result, the Department of Revenue decided to go forward with a process known as negotiated rule-making in an effort to garner input and suggestions about how to present the best possible regulations to deal with the issues at hand.

Division Concerns and Focus

The rule-making committee, appointed by the Commissioner of Revenue, consisted of eleven members, who represented the interest of permittees, operators, MBPs, distributors, vendors, the public and the Department. Using the Department's 2001 proposed regulations as a working document, the committee held nine meetings over five months in Anchorage, Fairbanks and Kenai to take public testimony, review, discuss and draft new proposed regulations. The committee issued its final report on July 31, 2002. The report reflected consensus on every provision of its proposed regulations, except the issue of whether a person who manages more than one permittee must become an operator, and the provision that a distributor cannot be a lessor of property used to conduct gaming activity. The vote on the affected provisions was nine for and two against.

* Public hearings on the rule-making committee's proposed regulations were held in Fairbanks, Anchorage, Soldotna and Juneau, August 26, through August 29, 2002. The department used the consensus of the committee, public testimony and written comments as a basis for the regulations it adopted on November 19, 2002. These regulations will be effective January 1, 2003.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB34
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Office of the Governor
 Title An Act relating to negotiated regulation making BRU Executive Operations
 Component Lieutenant Governor
 Sponsor Representative Holm
 Requester House Judiciary Component No. 11

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	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						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation has no fiscal impact on the Office of the Lieutenant Governor.

Prepared by: Linda J. Perez, Director Phone 465-3876
 Division Office of the Governor, Administrative Services Date/Time 3/19/03 11:08 AM
 Approved by: Annette Kreitzer Date 3/19/2003
 Agency Office of the Lieutenant Governor

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB34
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Repeal Sunset BRU Administration and Support
of Negotiated Regulation Making Component Commissioner's Office
 Sponsor Representative Holm Component No. 123
 Requester House Judiciary

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	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						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would repeal the July 1, 2003 termination (sunset) date for the statutory authority for negotiated regulation making. This legislation, which would continue the authority for negotiated regulation making, will not have an effect on the operating expenses of the Department of Revenue.

The Tax Division of the Department of Revenue last year used the negotiated regulation making process to draft and adopt new regulations for charitable gaming, and found the process useful and effective.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 3/19/03 10:37 AM
 Approved by: Larry Persily, Deputy Commissioner Date 3/19/2003
 Agency Department of Revenue

HB

46

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
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Committee Substitute for House Bill 46 (STA) Sponsor Statement

Committee Substitute for House Bill 46(STA) amends statute to require that ballot propositions be placed on the same ballots as those with candidates of a party. CSHB 46(STA) also directs the Director of the Division of Election to prepare and print a separate ballot with only ballot titles and propositions required to appear on the primary election ballot.

This bill does not change the closed-primary election system created by HB 193 in the 22nd Alaska Legislature. CSHB 46(STA) offers voters the additional choice of a "no-party" "issues only" ballot.

This bill responds to concerns raised by citizens who desire to vote on the ballot issues, but who prefer not to declare a party affiliation or are bound by their religious beliefs against declaring a party affiliation.

CSHB 46(STA) allows Alaskans to exercise their right and obligation as voters, while preserving their privacy right to refrain from declaring any political party affiliation.

CSHB 46(STA) has a zero fiscal note as it is the opinion of the administration that the activity contemplated in this bill can be accomplished within the existing appropriation to the Division of Elections and will require no incremental appropriation in the future.

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

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Anchorage, AK 99501
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Girdwood
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Hope

Sectional Analysis

Committee Substitute for House Bill 46 (STA)

Section 1.

Amends AS 15.25.060 – Preparation and distribution of ballots

- a) Requires that ballot propositions be placed on the same ballots as those with candidates of a party. Also instructs the Director of Elections to prepare and print a separate ballot to include only ballot titles and propositions required to be on the ballot at the primary election.

Sec. 15.25.060. Preparation and distribution of ballots.

(a) The primary election ballots shall be prepared and distributed by the director in the manner prescribed in this section. The director shall prepare and provide a primary election ballot for each political party that contains all of the candidates of that party for elective state executive and state and national legislative offices. The director shall print the ballots on white paper and place the names of all candidates who have properly filed in groups according to offices. The order of the placement of the names for each office shall be as provided for the general election ballot. Blank spaces may not be provided on the ballot for the writing or pasting in of names.

(b) A voter may vote only one primary election ballot. A voter may vote a political party ballot only if the voter is registered as affiliated with that party, is allowed to participate in the party primary under the party's bylaws, or is registered as nonpartisan or undeclared rather than as affiliated with a particular political party and the party's bylaws do not restrict participation by nonpartisan or undeclared voters in the party's primary. For the purpose of determining which primary election ballot a voter may use, a voter's party affiliation is considered to be the affiliation registered with the director as of the 30th day before the primary election. If a voter changes party affiliation within the 30 days before the primary election, the voter's previous party affiliation shall be used for the determination under this subsection.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 46
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to ballots." BRU Elections
 Component Elections
 Sponsor Representatives Hawker and Coghill
 Requester House State Affairs Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 The Legislature appropriated an additional 269.5 in FY '03 to cover the cost of implementing a six-ballot primary. If that appropriation is maintained in subsequent election-year budgets, it would be possible for the Division to absorb the cost of printing an additional ballot.

Prepared by: Lauri Allred, Administrative Officer Phone 465-2644
 Division Office of Lt. Governor, Division of Elections Date/Time 2/19/03 12:58 PM
 Approved by: Linda J. Perez, Director Date 2/19/2003
 Agency Office of the Governor, Administrative Services

----- Original Message -----

Subject: House Bill 46

Date: Mon, 03 Mar 2003 23:10:12 -0900

From: Randy Ruedrich <raraep@gci.net>

To: RPA <rpa@acsalaska.net>

CC: Representative Mike Hawker

<Representative_Mike_Hawker@legis.state.ak.us>

To All Representatives:

House Bill 46 is excellent legislation.

The Bill adds a ballot for non partisan voters to participate in the primary election ballot measures. Many Alaskans have requested this NP ballot since their religion or other personal beliefs do not allow their participation in a partisan primary.

I urge all legislators to support this constructive change in our primary process.

Randy Ruedrich

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX 110017
JUNEAU, ALASKA 99811-0017
PHONE: (907) 465-4611

CS HB46

An Act relating to printing of ballot titles and propositions on primary election ballots

Summary Statement by the Division of Elections House State Affairs Committee February 20, 2003

Last year, as Alaskans began to understand the state's new primary election law passed by the Legislature in 2001, many voters expressed the following concern to the Division of Elections:

- ◆ In order to vote on the preferential voting initiative that was to appear on the primary election ballot along with candidates running for office, they would have to choose the ballot of one political party in order to do so.

In August 2002, 51 percent of the state's voters (230,319 voters) were registered either undeclared or non-partisan. A number of these voters told the Division they wished to vote only on the initiative, not for candidates of one political party. The Division's response was that the law did not provide for a separate primary election ballot that included only propositions on it, such as initiatives. The Division received complaints not only before the election but also following the election.

CS for House Bill No. 46 addresses this issue. It would amend AS 15.25.060(a) to require the Division Director to prepare and print a separate primary election ballot that includes only the ballot titles and propositions that will appear on the ballot. At the same time, in new language, it requires that party ballots, in addition to including candidates, will also include the ballot titles and propositions. Current law addresses only the inclusion of candidates on party ballots.

The Division of Elections appreciates the opportunity to comment on this bill.

Religious faith at odds over new ballot

BAHA'I: Belief system doesn't allow involvement in partisan politics.

The Associated Press
(Published: July 31, 2002)

Juneau -- Alaska's new closed primary system, which requires voters to choose a ballot from one of six political parties, has members of the Baha'i faith in a quandary.

The religion prohibits involvement in partisan politics but encourages its members to exercise their civic duty of voting. But leaders of the faith say they don't know what to say to their 4,000 members in Alaska about a nonpartisan ballot measure on the Aug. 27 primary.

Members who want to vote on the measure must select a ballot from one of the state's six political parties to cast their vote.

The Baha'i of Alaska's spiritual assembly is scheduled to meet in Anchorage in less than two weeks to discuss the primary, said general secretary David Baumgartner.

The governing body plans to discuss how to convey guidance on the primary-election issue to Baha'i followers across the state, Baumgartner said.

The "preferential voting" ballot measure would institute a system of instant runoff voting in which candidates are chosen in order of preference.

If no candidate gets a majority of the vote, the candidate receiving the fewest first-choice votes would be eliminated. Those who voted for that candidate would have their second-choice counted. That would go on until a candidate receives a majority of the votes.

Baumgartner said voting is an important civic duty of Baha'i followers. An election process should allow them to vote in a way that does not require members to pick a party, he said.

Alaska law changed the state's previous blanket primary, in which all candidates from all parties are listed on the same ballot, after a U.S. Supreme Court decision.

The Republican Party of Alaska had been a proponent of holding separate primaries for the state's six recognized political parties.

"I don't think anyone had contemplated this problem arising," said Randy Ruedrich, state Republican Party chairman.

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Page last updated/revised 020731



® *National Spiritual Assembly of the Bahá'ís
of Alaska, Inc.*

24 August 2002

Janet Kowalski, Director
State of Alaska, Division of Elections
P.O. Box 110017
Juneau, Alaska 99811-0017

Dear Director Kowalski,

In response to recent questions raised in the Alaskan media regarding the participation of members of the Alaska Bahá'í community in the primary election process now in use in Alaska, the National Spiritual Assembly – the governing council for the Bahá'í Faith in Alaska – wishes to share with you its advice to the Bahá'ís of Alaska on this issue.

Since one of the fundamental principles of the Bahá'í Faith involves an attitude on the part of the Bahá'ís of obedience and loyalty to the government of the country they reside in, and no interference whatsoever in political matters or questions, we offer the assurance of our full respect for Alaska's election laws and processes.

The members of the Bahá'í community strive to carry out their responsibility to vote in civil elections, which they regard as a spiritual obligation, in accordance with the principles found in the teachings of their Faith. Bahá'ís are encouraged to fulfill this responsibility by voting in elections if they can do so without identifying with one party or another. Bahá'ís vote on the merits of the individual or issue, rather than basing their participation in the electoral process on associations with any party.

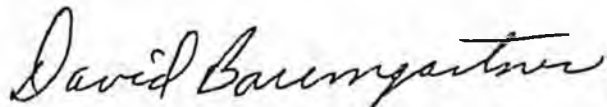
It is the Baha'i view that membership in any political party would conflict with some or all of the principles of peace and unity proclaimed by Bahá'u'lláh, the Founder of our Faith, and would compromise the Bahá'í principle of absolute freedom of the individual to vote according to the dictates of his conscience. Bahá'ís seek to preserve the nonpartisan character of their Faith and to employ an attitude of nonpartisanship in the exercise of their civic responsibilities as voters.

In consideration of these principles, it seems that it would not be possible for Bahá'ís to participate in Alaska's primary elections as they are currently structured. We understand that usually the main function of primary elections is to allow each party to select its candidates to run in the subsequent general election, so Bahá'ís -- as non-partisans -- do not regard a closed primary election as any sort of disenfranchisement. The current structure does, however, as a separate issue, also prevent Bahá'ís from participating in any non-partisan ballot issues which may be attached to a primary election ballot

Since, as a matter of principle, the Bahá'í Faith regards choices in electing individuals to office and voting on issues as being a private matter, we have advised the Bahá'ís to feel free to perform these functions according to the dictates of their own consciences, bearing in mind the applicable principles of their sacred beliefs.

We thank you for this opportunity to share these thoughts with you, and to convey our absolute impartiality in the matter of political parties, that we are neither for or against any system of politics; that Bahá'ís prefer, as a matter of principle, to expend their energies on the promotion of the common good through the application of the teachings of their Faith to the issues confronting society rather than through protest of any existing policies or practices of their respective governments; and, that we are loyal supporters and sincere, well-wishers of the governments under which we live.

Sincerely,



David Baumgartner, Secretary-General

NATIONAL SPIRITUAL ASSEMBLY OF THE BAHÁ'ÍS OF ALASKA

HB

49

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:
LABOR & COMMERCE COMMITTEE, CHAIRMAN
COMMUNITY & REG. AFFAIRS COMMITTEE, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
ADMINISTRATIVE REGULATION REVIEW COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/Anderson.htm>

INTERIM
716 WEST 4TH AVENUE, SUITE 650
ANCHORAGE, AK 99501
PHONE: (907) 269-0265
FAX: (907) 269-0264

SESSION
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
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Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

Date: April 16, 2003

To: Senator Ralph Seekins, Chairman
Senate Judiciary Committee

From: Representative Tom Anderson, Chairman
House Labor & Commerce Committee *T.A.*

Re: CS HB 49(JUD)

I respectfully request you schedule CS HB 49(JUD) for Senate Judiciary Committee consideration.

Enclosed are:

1. The most recent version of CS HB 49(JUD)
2. Current Sponsor Statement
3. Current Sectional Analysis
4. Fiscal Notes (Dept. Public Safety, Law, and Administration)
5. Communications of support:
 - a. Alaska Association of Chiefs of Police
 - b. Alaska Police Officers Association
 - c. Alaska Network on Domestic Violence and Sexual Assault
6. "Local rape rates are increasing" *Anchorage Daily News*, Feb. 15, 2003
7. "If shoes could talk" *Frontiersman*, Sept. 16, 2002
8. "Why have offender DNA databases?" *Cox News Service*, Jun. 8, 2001
9. "Why should legislators expand offender DNA databases?" *DNAresource.com*
10. "DNA Law Aims to Boost Safety" *Anchorage Daily News*, April 9, 2003.

Thank you for your consideration of this request.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR CS HB 49(JUD) BY: Representative Tom Anderson

TITLE: An Act relating to the DNA identification registration system; and providing for an effective date.

CS HB 49(JUD) will expand the Alaska State Database of DNA samples to include all persons convicted of a crime against a person or any felony under Alaska's criminal code. It would also require the collection of DNA samples from those juveniles adjudicated as a delinquent for these same offenses. Additionally, CS HB 49(JUD) makes provisions for volunteer and anonymous donations. Persons required to register as sex offenders are also required to submit DNA into the database. Further, CS HB 49(JUD) will require all those offenders and minors currently incarcerated or on State supervised parole for felony convictions or certain sexual misdemeanor offenses to provide samples to the Department of Public Safety.

Expanding the state databases to include all convicted offenders would have several benefits:

1. **Solves crimes** – DNA collection from all convicted felons, rather than just sex offenders and perpetrators of serious violent crimes, would result in an increase in the amount of violent crimes solved. Therefore, offenders who are required to submit DNA when convicted of non-violent felonies will be identified as they leave DNA behind at a rape and murder scenes.
2. **Prevents crimes** - Solving a crime -- and solving it quickly -- has a direct effect on preventing additional crimes by the same perpetrator. An offender who is not apprehended in a timely manner remains free to commit more crimes.
3. **Exonerates the innocent** - Increasing the DNA database to those convicted of non-violent offenses would reduce the occurrence of innocent people who are wrongly suspected, arrested and convicted of crimes they did not commit. Two common scenarios exemplify how a larger DNA database protects such innocent people, one where the guilty party is in the database, and secondly, where the innocent party is in the database.
4. **Increases Cost Efficiencies** – According to a study completed by the National Institute of Justice (U.S. Department of Justice) rape is the costliest crime in America with victim costs totaling \$127 billion. The study estimated that when all factors are considered the estimated cost of rape *per victim* is \$87,000. If the average rapist commits eight rapes, but a DNA databank stops the offender half way through his spree, then four rapes are prevented at a savings of \$348,000.

I urge your support for this legislation.
April 10, 2003 – CS HB 49(JUD)

23-LS0132\S

Alaska State Legislature

House of Representatives



Official Business

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Sectional Analysis for CS HB 49(JUD) BY: Representative Tom Anderson

Section 1 adopts the following findings:

- DNA is an important tool in criminal investigations;
- expansion of the DNA registration system will greatly assist law enforcement agencies in solving crimes;
- cooperation between state and other criminal justice agencies will help detect repeat offenders and exonerate innocent people;
- the federal government is paying for the costs of the DNA registration system.

Section 2 expands the crime of refusal to submit a DNA sample to persons who refuse a request by an authorized person to provide a DNA sample, and who are required to submit a DNA sample because they must register as a sex offender under AS 12.63.

Section 3 increases the penalty for refusal to submit a DNA sample from a class A misdemeanor (maximum one year incarceration) to a class C felony (maximum five years incarceration).

Section 4 adopts a new crime, Unlawful use of DNA samples, a class C felony. It prohibits a person from misusing both the DNA samples stored in the State Crime Laboratory and the identification data derived from the samples.

Section 5 expands the DNA registration system to include DNA samples from:

- all persons convicted of a crime against a person (AS 11.41);
- all persons convicted of a felony in violation of Title 11, Alaska's criminal code, or a felony in violation of AS 28.35 (DUI and Refusal);
- minors 16 years of age and older who are adjudicated delinquent for acts that would be a crime described above;
- volunteer and anonymous donors;
- persons required to register as sex offenders under AS 12.63;
- crime scene evidence;
- an unidentified person or body part.

Further, it allows tissue samples, in addition to blood and saliva samples, to be collected and analyzed from crime scene evidence and from unidentified persons and body parts.

Section 6 clarifies language addressing the Department of Public Safety's DNA analysis service to law enforcement agencies.

Section 7 adds exoneration of innocent people to the acceptable uses of the DNA registration system.

Section 8 defines "crime against a person."

Section 9 defines "convicted."

Section 10 allows the Department of Public Safety to adopt regulations to help administer the DNA registration system.

Section 11 provides that a person who comes to Alaska from another state under an interstate corrections or probation agreement or compact, and who has been convicted of a crime that is similar to one requiring submission of a DNA sample in Alaska, must submit a DNA sample for inclusion to the system.

Additionally, it clarifies that the Department of Public Safety may not include samples taken from crime victims in the registration system.

Section 12 applies the changes the bill makes in the DNA registration system to persons convicted or adjudicated delinquent for a qualifying offense committed on or after the effective date of the Act, offenses committed before the effective date of the Act if the person is still incarcerated or under supervised parole or probation for the offense, and to all persons required to register as sex offenders.

Section 13 permits the Department of Public Safety to begin adopting regulations immediately; however, the regulations will not take effect before the effective date of the Act.

Section 14 instructs the commissioner of public safety to inform the president of the senate and speaker of the house of representatives if, at any time after the effective date of the Act, the federal government fails to pay the cost of the registration system.

Sections 15 and 16 adopt effective dates.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 49(JUD)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
 Title Expand DNA database BRU Statewide Support
 Component Criminal Records & ID
 Sponsor Representative Anderson
 Requester _____ Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact to the Department.

Prepared by: Diane Schenker
 Division Administrative Services
 Approved by: Commissioner William Tandeske
 Agency Department of Public Safety

Phone 907-269-5092
 Date/Time 2/11/03 9:50 AM
 Date 2/11/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 49(JUD)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the DNA identification BRU Criminal Division
registration system; . . ." Component All
 Sponsor Representatives Anderson and Hawker
 Requester House Judiciary Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill expands the DNA registry to include samples from all persons who are convicted of a felony or misdemeanor sex offense. It would also include samples of persons 16 years of age or older and adjudicated as a delinquent for an act that would be a felony or misdemeanor sex offense. The bill is retroactive for crimes or delinquent acts committed prior to the effective date of the act, if the person is incarcerated for that conviction or in the custody of DH&SS for that offense on the day the sample is collected.

The Department of Law does not anticipate a fiscal impact from passage of this legislation. Any impact would likely result from increased prosecutions of the crime of refusing to submit to testing, and it is our experience that individuals seldom refuse to submit to DNA testing. We do not expect that broadening the pool of individuals who must submit will increase the incidence of refusal significantly.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 2/25/03 1:48 PM
 Approved by: Kathryn Daughhelee for Gregg D. Renkes, Attorney General Date 2/25/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 49(JUD)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: DNA identification registration BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Reps. Anderson and Hawker
 Requester: House Judiciary Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	***	***	***	***	***	***
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2003) cost: ***
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill expands the list of crimes, including some sexual offense misdemeanors and any felony, for which, after conviction or delinquency adjudication, a defendant or minor is required to give a DNA sample. Currently only felony crimes against a person and burglaries are listed.
 The Public Defender Agency operations may be affected by this legislation. It is a class A misdemeanor to refuse to provide a sample on request. The Public Defender Agency is seldom appointed in these types of cases, but this bill expands the circumstance where a sample is required. The Agency currently handles over 3600 adult felonies a year, and an unknown number of misdemeanor sexual offense crimes. With the expansion sought in this bill, the Public Defender Agency may see an increase in appointments to cases charging a person with failure to provide a DNA sample, and an increase in its workload on the underlying case because of the additional penalty of requiring the person to give a DNA sample upon conviction or adjudication. More cases may go to trial as a result of this additional penalty. However, it is not possible to accurately predict the increase in caseload or workload. Therefore, the fiscal impact is indeterminate.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)-334-4416
 Division: Public Defender Agency Date/Time: 2/26/03 9:19 AM
 Approved by: Commissioner Mike Miller Date: 2/26/2003
 Agency: Department of Administration



Alaska Association of Chiefs of Police

February 10, 2003

Honorable Tom Anderson Chair,
House Labor & Commerce Committee
State Capitol Building, Room 432
Juneau, AK 99801-1182

Dear Chairman Anderson:

On behalf of the Alaska Chiefs of Police Association, we encourage you and your colleagues in the State Legislature to support HB 49, expanding the State DNA Database.

We believe that the collection and examination of DNA evidence is the next step in the technological advancement of the art and science of crime investigation. Unfortunately, the potential of DNA identification technology as a crime fighting/solving tool is not being realized due to under funding of forensic laboratories and the limitations on sample collection.

Forensic DNA typing has had a broad, positive impact on the criminal justice system. In recent years, convictions have been obtained that previously would have been impossible. Countless suspects have been eliminated prior to the filing of charges. Old, unsolved criminal cases, as well as new cases, have been solved. Mistaken accused defendants have been freed both before trial and after incarceration. And increasingly, the unidentified remains of crime victims are being identified.

HB 49's expansion of DNA collection to all felons and the specific misdemeanor sex crimes will increase the samples in the statewide database and lead to an increase in the number of unsolved crimes both old and new. HB 49 will additionally help to make police investigation more efficient and more accurate, helping both law enforcement and crime victims.

We encourage both you and your colleagues to support this very important piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Clemons", is written over a horizontal line.

Chief Thomas Clemons
President Alaska Chiefs of Police Association

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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February 6, 2003

Representative Tom Anderson
State Capitol
Juneau, AK 99801-1182

Dear Representative Anderson:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing House Bill No. 49, an act relating to the DNA identification registration system; and providing for an effective date.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

As you are aware the DNA identification registration system has proven itself in the identification of suspects that would have otherwise been undetected. The broadening of the DNA database is not only a positive suspect identification tool for Alaskan law enforcement but also a proven means of helping to solve "cold" cases, where the leads had all but dried up. We believe that this proposed legislation will be of benefit to both the citizens and law enforcement of Alaska.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Leo J. Brandlen
State President

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ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

Main Office & Legal Advocacy Project

10 Seward Street, Suite 209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
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Pro Bono Project

P.O. Box 6631
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Fax: (907) 747-7547

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SCS

Sitka
SAFV

Unalaska
USAFV

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AVV

To: Representative Anderson
From: Lauree Hugonin *LH*
Re: Expanding the DNA Databank
Date: April 2003

The Alaska Network on Domestic Violence and Sexual Assault is the statewide coalition of non-profit organizations providing immediate safety, crisis intervention and advocacy services to victims of sexual assault and domestic violence, their children and the perpetrators of these crimes.

Thank you for sponsoring HB49 that will expand the pool of convicted criminals from which DNA may be taken and then entered into the state's DNA databank.

Requiring DNA registration of those convicted of crimes can assist in the accurate apprehension and conviction of sex offenders. The Network supports the accessibility of as many identifiers as possible for use by law enforcement when investigating and prosecuting crimes, particularly sex offenses.

Sexual assault victims undergo forensic rape exams as soon after an attack as possible in order to preserve among other samples those of semen, hair and skin of the attacker. Instead of having to wait until a suspect is identified and undergoes a similar exam to collect samples, with the databank the samples can be used as soon as they are typed to match against known offenders to eliminate suspects; narrow the field of investigation; and, in some cases identify the perpetrator.

Alaskan law enforcement efforts should be supported with the best technology possible. Requiring those convicted of crimes to register their DNA will not prevent sexual assault, but it will better equip the criminal justice system, and demonstrate Alaska's commitment to use every means available to apprehend and convict sex offenders.

Thank you for your efforts to hold perpetrators responsible for their crimes.



417 D Street
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Anchorage Daily News

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Local rape rates are increasing

ANCHORAGE: City had 5th highest number of reported sexual assaults in nation.

By Tataboline Brant
Anchorage Daily News

(Published: February 15, 2003)

Anchorage had the fifth highest rate of reported rape among 274 metropolitan areas in the United States, according to 2001 statistics released Friday by city officials.

The numbers are based on the FBI's 2001 Uniform Crime Reports and were condensed into a report by the SAFE City Program, part of the Municipality's Department of Health and Human Services.

Anchorage police presented the statistics, along with some of their own, on Thursday to the Alaska Native Women's Sexual Assault Committee, a volunteer task force that meets monthly. The committee had asked police to make the presentation, said committee member Karen Lee, program director for the Alaska Native Justice Center.

What they heard was alarming, she said: "We were surprised to see such a dramatic increase over the last three years."

According to Anchorage police statistics, the number of reported rapes in Anchorage per 100,000 population has been on the rise in recent years after dropping to 59.5 in 1999. It climbed to 75.2 in 2000 and 81.3 in 2001. That put the city fifth behind Rapid City, S.D.; Bremerton, Wash.; Panama City, Fla.; and Benton Harbor, Mich., according to SAFE City statistics.

The 2002 rate is not yet tabulated, but police told committee members they expect another increase, Lee and others said.

Rape is not a new problem in Alaska. Since 1976, the state has ranked in the top five states in the nation for the highest rate of reported rape per capita, according to SAFE City statistics. For 19 out of the last 26 years -- including 2001 -- Alaska ranked highest in the nation, SAFE's numbers show.

Anchorage Assemblywoman Anna Fairclough, executive director of STAR, Standing Together Against Rape, said she wasn't surprised that the state ranked highest in 2001.

"We've always known at STAR that we have held the No. 1 spot," she said.

What was alarming were the statistics about Anchorage, Fairclough said. When you look at the overall rate for major crimes in the city -- homicide, rape, burglary, aggravated assault, theft, robbery -- Anchorage looks like a pretty safe place to live compared with the rest of the nation. But look at the rape category alone and Anchorage "just screeches to the top," she said.

Fairclough did not know what may have caused the rate of reported rapes in Anchorage to rise in

the last few years: "It would be a guess as to why."

Committee members Lee and Denise Morris, president of the Alaska Native Justice Center, said they too could only speculate on why the numbers have gone up.

The Alaska Native Women's Sexual Assault Committee was formed in 1999, after police released statistics indicating that more than 50 percent of the reported cases of sexual assault occurring in Anchorage had been reported by Alaska Native women, Morris said. Perhaps the committee had something to do with why the rates rose in 2000 and 2001, Lee said. "What happens sometimes when you bring awareness is people feel empowered to report," she said. "But that's only one scenario."

The committee will continue to study the issue and try to come up with solutions, said Morris, the committee chair. The task force already does "meet and greet" campaigns about three times a year, targeting Alaska Native women, Morris said. It hands out literature about how to stay safe.

"I think there's more that could be done," Morris said.

SAFE City wants to do a comprehensive study on sexual assaults in Anchorage, said Rhonda Grove, a statistical analyst with the program.

Funding for the study has not yet been secured, but officials already have plans to develop the methods for the study in the next year, she said.

The study would likely provide demographic information about rape victims and offenders and more details about the actual assaults, among other things, she said, which could be used to fight the problem.

Reporter Tataboline Brant can be reached at tbrant@adn.com and 907-257-4321.

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Frontiersman

If shoes could talk

By Naomi Klouda-Frontiersman

Investigators at crime scenes have long wished shoes could talk. Or T-shirts, a bed, a dog, or a tree.

New technology called STR Typing makes that wish come true to some degree, with resolution in elusive criminal cases more possible than ever before. DNA testing ferrets clues from the smallest T-shirt stain, the slightest hint left on a tree. It can travel back through time and analyze old evidence in new ways.

A program called CODIS links the state crime lab to a national database that looks for matching evidence between unsolved crimes and searches through DNA profiles on convicted offenders. Chris Beheim, acting director of the Alaska Department of Public Safety's crime detection lab, seemed pleased as he explained the extent of what mysteries can now be solved thanks to the technology. Eleven matches in two years have led to new information that moved cold cases forward.

"That's impressive," Beheim said, "considering Alaska's database isn't very old and does not contain that many DNA samples as yet." Alaska has 3,300 listings in its data banks while Virginia's, for example, currently contains 183,000 entries.

One case this spring involved an Anchorage woman abducted and brought to the Valley where she was sexually assaulted. She scratched her attacker, and blood in stains from her clothing was linked to DNA evidence gathered in two previous rape cases. A suspect was then arrested.

In another case, an Alaska woman was raped and murdered in 1995 by a man who fled in a van. It remained unsolved until DNA information in Alaska's database matched with DNA taken from a man convicted of murder in North Carolina. He was serving his sentence in jail and was required to give a DNA sample, which was then entered into the national database. But first police there contacted Alaska authorities to inquire about him because his van bore Alaska license plates.

"These guys travel around, and the database is connecting them from state to state," Beheim said. "Every year, the success rate for solving cases increases incrementally as more data is entered."

The database works on an oft-seen fact of police investigation: Criminals repeat their criminal acts. For instance, evidence left at a crime scene in Alaska matches with a similar act in Oregon because that's where the criminal went next.

Results help victims and families of crime victims find closure. Certain crimes also haunt those in law enforcement long after the case has to be set aside unsolved. Beheim's memory is long from 25 years at the crime lab, and he said he hopes to solve cases that continue to disturb him.

Using this DNA evidence is also cost efficient, saving investigators time by eliminating certain suspects, saving courts time by offering solid proof. And it's a deterrent, Beheim believes, because if convicted felons in crimes against people have to give a DNA sample, they aren't as likely to re-offend.

Under current state laws, those convicted of certain felony crimes must give a DNA sample, usually a mouth swab, which is then entered into the database. Suspects' DNA cannot be legally added to the data base unless legislators change the law, though states like Virginia that enter such data have high success rates for finding matches.

This year, the Alaska Legislature expanded the law to include those convicted of burglary. And rather than focus on entering suspects' information, Beheim would like to see the law extend to all felony crimes, such as drug-related offenses, because, nationally, states that have done so found significant matches in the traditionally "victimless" crimes with offenses that left victims.

It's

elementary

Alaska State Trooper detectives Sgt. Dallas Massie and Leonard Wallner agree the new technology helps. It confirms their findings that criminals don't alter their behavior by much, and that some come to Alaska and repeat a crime done in the Lower 48. "It's another tool we can use, and it can confirm the findings of an investigation," Massie said.

Yet, investigations still require the same mind and foot work of Sherlock Holmes' days. As a team gathers physical evidence that can be forwarded to the lab, the investigators continue to try to answer traditional questions when they work an investigation: Who, what, why, when and how?

"An event occurs and we look at the facts associated with that event. We view those facts, try to evaluate who could have done that and why," Massie said. "You have a starting point -- a body is found in the woods -- and you back-track to find out the victimology, who were his family and friends?"

Investigations work backwards through a chronology, and the best way to understand all possible answers is still the old-fashioned way: Discussion. Massie and Wallner talk a lot to each other when they have a complicated case, going on a team concept that one person might notice a detail that another missed. "One person might be good at interviewing, another person might be better at gathering evidence from a crime scene," Wallner said.

The pairing up of investigators remains a strong tradition even in this

technological' y-dependent era. Massie and Wallner have a long history together. They first met when Massie wrote Wallner a traffic ticket for speeding 15 years ago. Wallner wasn't a trooper yet, and he ended up beating the ticket at Palmer Court before Magistrate David Zwink. "It was our [Wallner and his wife's] wedding anniversary," Wallner said, by way of explanation.

"I still don't know how you beat that ticket," Massie chided.

Wallner joined the troopers in 1991, then the investigations unit in 1994. Massie became his mentor, he said. "I guess we kind of clicked. He has a lot of knowledge after 22 years on the job."

Other officers, such as Sgt. Dennis Ponder, also were instrumental as Wallner's partners through some of the most serious cases the department handled through the years.

They have no fancy rituals for evaluating crimes. There's no brandy-drinking or cigar chewing as they ponder the clues. It's just an older officer and a younger one often joined with other officers talking through a case.

Intuitive skills play as much a role in the process as any developed skill, the investigators said. They are reluctant to talk about current cases, but can give illustrations from the past. In the 1983 Robert Hansen serial murder case, for instance, certain "facts" didn't make sense. B-Detachment troopers were brought into the case after a woman's body was discovered buried near the Knik River. Massie, as a young trooper, located a spent shell casing not far from the body that eventually matched with Hansen's gun. But, early on, it was difficult to get investigation lined up for an arrest, he said.

"You don't want tunnel vision. You have to think outside the box," Massie said. In the Hansen case, which eventually linked him to more than 20 murders, most of whom had been strippers or prostitutes, the case was slow going even though the clues were there. A woman running from Hansen after being stripped and handcuffed so he could place her in his airplane was a sure witness, yet her ordeal wasn't initially linked by the Anchorage Police Department to the other missing women.

A trooper fish and wildlife officer, knowing Hansen was a suspect, decided to follow him every time he flew. That was one of the major breaks in the case, Massie said.

"You look into peoples' past, their past behavior. Don't listen to what they say so much as how they say it. Look at what they do," Massie said. "Hansen had been a suspect in an arson case. He stole a chainsaw from Fred Meyer even though he owned a bakery. It didn't make sense that he would steal it. There's a reason why, but it doesn't make sense."

Based on that kind of a reaction to known details, tenacity and the desire to keep investigating a case, resolutions are found. Hansen was convicted of murdering most of the women, and is serving a life sentence at Spring Creek in Seward.

Wasilla Police Chief Don Savage, who has 30 years in law enforcement mostly with the troopers and as former Captain of B Detachment, calls the intuitive side of investigation

an "art" that compliments the science.

Science's new ability to firmly link suspects with crime scenes still depends on the intrinsic efforts of investigators like Massie and Wallner. It's all fine and well for the shoe to now be able to communicate clues; the officer is still the one who visualizes who wore the shoe and what happened to him or her.

Raising

the benchmark

One of the problems with newer, more refined DNA definitions that track suspects within one-in-one quintillionth of a match, may be that a "benchmark" is raised, Savage said. In the past, good police work gathering circumstantial and physical evidence led to solid convictions without the aid of highly developed science.

Current cases often are delayed by "lab issues," which means officers are waiting for the crime lab to confirm or dispute their findings. In most cases, the body of evidence points in a certain direction, yet an arrest is delayed because the new benchmark for proof is raised, Savage said.

After more than a century of sleuth work, fibers, hair and fingerprints still qualify within a body of evidence, he said. Prior to DNA breakthroughs, the fingerprint provided the best clue.

During the 1870s, the British surgeon Dr. Henry Faulds, published an article in "Nature" on one of the first discussions of fingerprints as a means for individual identification. He was credited for taking the first fingerprint from a greasy print left on an alcohol bottle.

A policeman in Argentina in 1891, working on fingerprint classifications developed by Charles Darwin's cousin Sr. Francis Galton, arrested a woman for murdering her two sons after proving she did it based on a bloody fingerprint. Mark Twain in 1883 made a fingerprint proof for a crime in "Life on the Mississippi," and it was rumored that Jack the Ripper investigators collected fingerprints from his casualties.

For the next 100 years, fingerprinting would become the most fool-proof method for matching a criminal to a crime scene. Today, Beheim said it remains a solid tool.

In Alaska, the kind of DNA typing called DQ Alpha led to Polymarker typing before STR typing was brought online in 1999. Advances in DNA technology have revolutionized the art of identifying biological evidence at the scene of a crime. But it wasn't until STR Typing that DNA data bases become possible today.

"DNA isn't the only thing we do," Beheim said. "Shoe prints, fire arms evidence, crime scene reconstruction, and fingerprints are still what solve a lot of cases."

"Technology is fabulous," Savage said. "You can look around the country and see how it has freed innocent people, too. These are wonderful advancements, but it doesn't replace good investigation, it only supplements and adds credibility."

Interviewing skills are probably the most important asset in collecting information, Savage believes. The criminal justice system still relies on what people see and hear. How a good interviewer extracts that information remains the same, he said.

In the 1980s, catching a child sex abuser largely depended on confessions. Even today, there is not likely to be physical evidence to firmly link in such cases, Savage said. And so the art of being an analytical, independent thinker, relating well to people in a successful interview, remain timeless tools. Officers good at interviewing people are generally compassionate, he said.

Staying in

the boundaries

For the future, law enforcement can continue to look at nationally standardized databases expanded even further. England's goal is to get the entire active criminal population in their database,

Beheim said.

In America, it's probably a reasonable goal to "take one step at a time," Beheim said. "We have privacy concerns. The civil libertarians are afraid the data will be misused. We need to make sure that the DNA

information is only used for law enforcement identifications and impose strict penalties if those are violated."

Names are not used in the data profiles, only case numbers. To find a named linked to a DNA entry, one would need to go to the case number. CODIS is a secure system that requires national security clearance, Beheim said, and there are only two computer stations in Alaska, both in the crime lab.

Alaska was 10th in the nation to upload STR profiles into the national data base. We beat out California, New York and Washington in entering the shared pool of information. Recently Washington and Oregon expanded to include all felony conviction cases. Florida has perhaps shown the most success in solving crimes from databanks, Beheim said, while Virginia also has an impressive record of more than doubling its number of matches between evidence and criminals each year.

Virginia has seen 920 "hits" or matches this year so far, Beheim said. Of those, they estimated that 86 percent would have been missed if they had not been able to include those convicted in all felony categories.

"We are doing some serious work here on DNA data," Beheim said. "The next step is to consider adding all felony convictions."

That would be a political decision, Wallner said. "It is an exciting tool. I've developed cases that I thought I had a good idea of who the bad guy was, and when DNA was tested, it exonerated the suspect. It works both ways, and that's the way it should be."



WHY HAVE OFFENDER DNA DATABASES?

Texas Legislature expands use of DNA testing

Cox News Service
June 8, 2001 Friday

Byline: Laylan Copelin
Dateline: AUSTIN, Texas

Christopher Ted Dye raped three Austin women in their homes before the police first arrested him in 1993 for burglarizing a house. Unaware they had apprehended a serial rapist, authorities released the 34-year-old former auto mechanic on bail.

Over the next six months, Dye raped four more women before being arrested a second time for burglarizing an apartment. He served two months in jail. For two more years, as the police searched for the MoPac rapist, nicknamed that because the attacks occurred near the expressway, Dye raped seven more women before finally being caught.

When Austin Police Chief Stan Knee began championing DNA testing at the time of arrest, he had to look no further than Dye, the city's most notorious serial rapist. **"He's the perfect example of how we could have saved 11 (rape) victims."** Testing Dye upon his first burglary arrest could have led to a DNA match from his first three rapes.

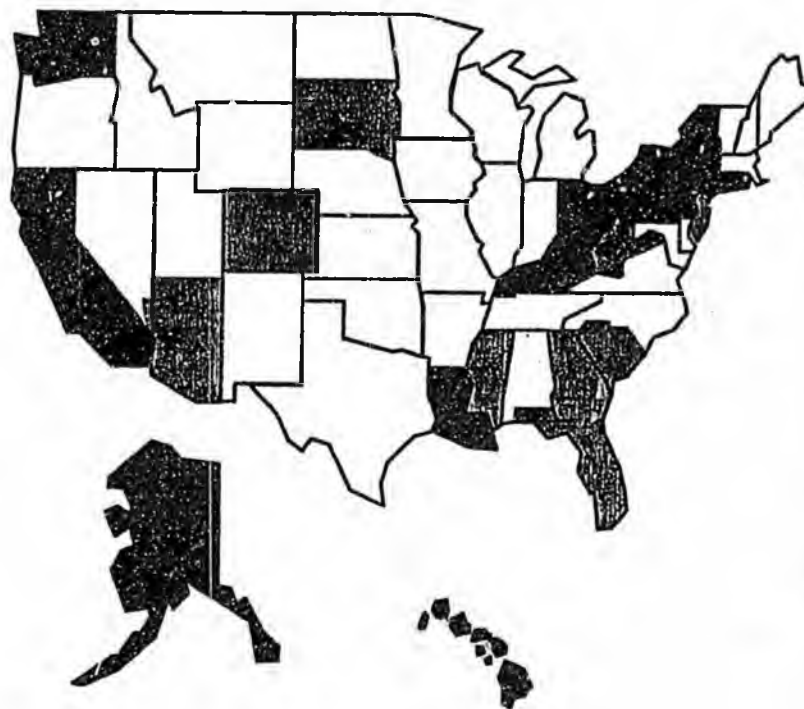


DNA DATABASE EXPANSION (2000)

In 2000, 19 states introduced legislation to expand the offenders from whom DNA samples are required

PASSED (8) ■

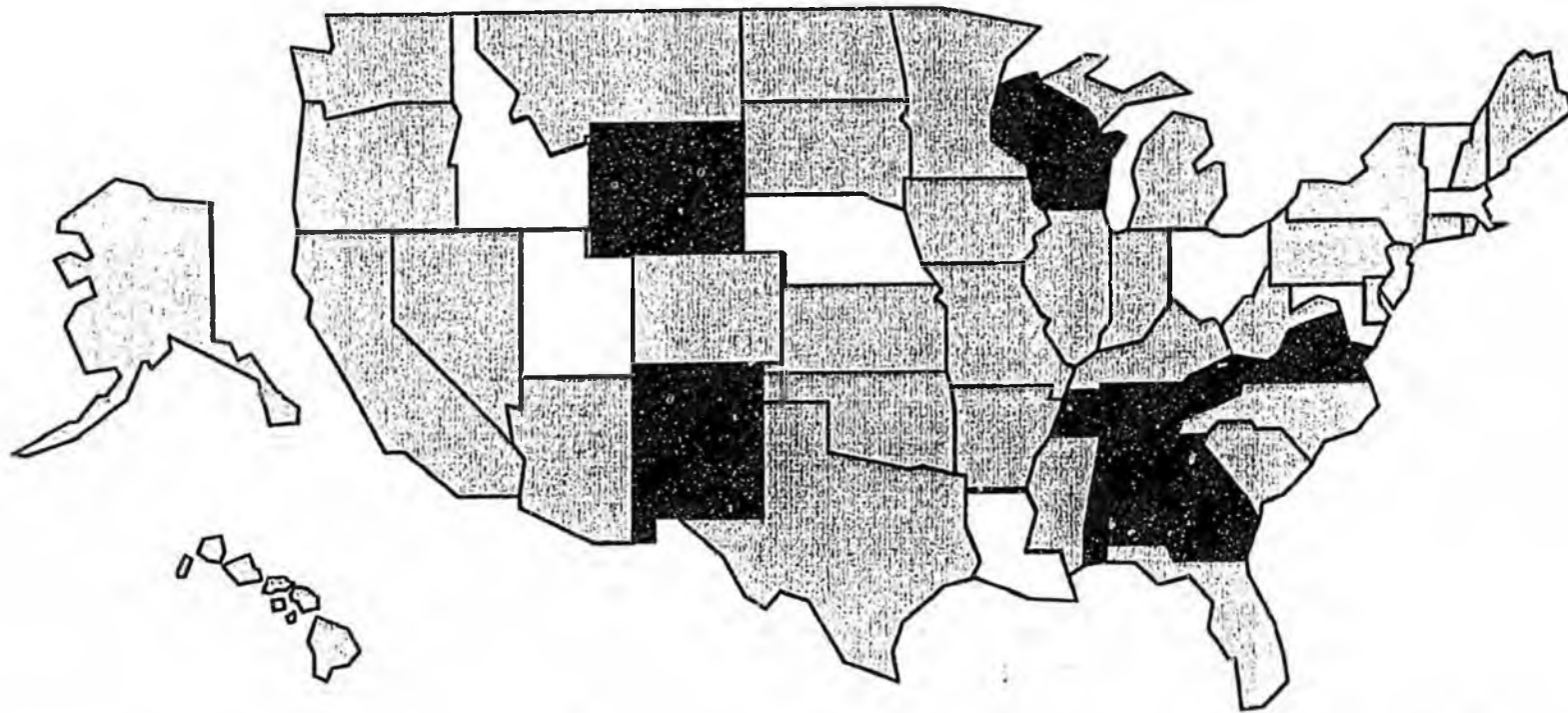
- Arizona -- Most non-drug related felonies
- Colorado -- Most non-drug related felonies
- Florida -- Burglary
- Georgia -- All felony convictions
- New Jersey -- Several violent felonies
- South Carolina -- Most non-drug related felonies
- South Dakota - Most non-drug related felonies
- West Virginia -- Most non-drug related felonies



DID NOT PASS (11) ■

- Alaska -- Burglary
- California -- All felony convictions
- Connecticut-- Fingerprintable arrests
- Hawaii -- Most violent crimes
- Kentucky -- Most violent crimes
- Mississippi -- All felony convictions
- New York -- All misdemeanor and felony convictions
- Pennsylvania -- Most violent crimes
- Ohio -- Most non-drug related felonies
- Rhode Island -- Breaking and entering & assault
- Washington -- All felony convictions

DNA Database Expansion in the 2001 Legislature



35 states have introduced over 110 bills to expand the state offender DNA database to include more felons.

Of these states, 24 have introduced bills to expand the DNA database to include *all convicted felons*.

2001 Expansion Bills



Alaska	SB 99 - Halford & Murkowski	Burglary	Passed
Arkansas	HB 1376 - Hunt	Burglary	Passed
	HB 1259 - Verkamp	All Felons	Failed
Arizona	SB 1171 - Smith	All Felons	Failed
California	AB 673 - Migden	Burglary, robbery, arson, carjacking	Pending
Colorado	HB 1130 - Grossman	All Felons	Passed
Connecticut	SB 89 - Brien	Violent felonies, burglary	Failed
Delaware	HB 4 - Ewing	All Felons	Pending
Florida	SB 366 - Villalobos & Silver	All Felons	Passed
Hawaii	Multiple bills	All Felons	Failed
Iowa	HF 254 - Baudler	All Felons	Failed
Illinois	HB 452 - Lyons	Stalking, concealment of a homicide	Passed
Indiana	SB 316 - Alexa	Probationers & parolees	Passed
Kansas	SB 263 - Felciano	Burglary, misdemeanor sex offenses	Passed
Kentucky	HB 33 - Younts	All Felons	Failed
Maine	LD 1565 - Carr	Class A,B & C crimes	Passed
Michigan	Multiple bills	All Felons	Passed

2001 Expansion Bills



Minnesota	Multiple bills	All Felons	Failed
Mississippi	Multiple bills	All Felons	Failed
Missouri	HB 835 - Boucher	All Felons	Failed
Montana	HB 359 - Clark	All Felons	Passed
North Carolina	HB 1127 - Blust	All Felons	Pending
North Dakota	HB 1208 - Klemin	Violent felons, burglary	Passed
New Hampshire	SB 30 - Hollingworth	Murder, assault, arson, rob.	Pending
New Jersey	SB 2236 - Bucco	Robbery, carjacking, criminal restraint	Pending
Nevada	AB 489 - Gustavson	A, B & C felonies	Pending
New York	Multiple bills	All Arrestees	Pending
Oklahoma	SB 753 - Wilkerson	Robbery, burglary, kidnap, maiming	Passed
Oregon	SB 920 - Minnis	All Felons	Pending
Pennsylvania	SB 259 - Dent	Burglary	Pending
Rhode Island	SB 92 - Brien	Crimes of violence	Passed
South Carolina	SB 492 - McConnell	2nd degree burglary	Passed
Texas	HB 588 - Garcia	All Felons	Passed
	SB 638 - Barrientos	Indictments for certain crimes	Passed
Washington	HB 1335 - Miloscia	All Felons	Failed
West Virginia	HB 2456 - Pino	Arson, burglary, forgery	Failed