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lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

California: Cal. Gov. Code § 84602:

(d) Make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the Internet within 24 hours of receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(g) Provide assistance to those seeking public access to the information.

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



**THE CAMPAIGN
FINANCE REFORM
BLIND SPOT**

Ballot
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Strategy Center
Foundation

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The **Ballot
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is a national, non-partisan, educational policy center that tracks local measure activity and contributions, trains individuals to work on ballot initiative campaigns, and facilitates greater understanding and strategic use of the initiative process.

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Dozens of state disclosure agency staff in the 24 states and the District of Columbia spent hours talking on the phone with us, answering our questions, guiding us through their disclosure laws, and helping us to better understand the challenges they experience in their efforts to disclose initiative financial data to the public. We salute these public employees and their dedication to working, in large measure, with limited resources and staff.

This research was supported by the Stern Family Fund, Carnegie Corporation of New York, and the Center for Democracy and Justice at the University of California, Berkeley. Daniel South, Director, Ballot Funding.org; James Gulliver, President, Citizens for a Free and Fair Election; and the Center for Democracy and Justice at the University of California, Berkeley.

Rebuffed by strict, new limits on their ability to buy influence through the national political party apparatus, former federal soft money donors will likely seek new, less regulated paths to influence public policy, including ballot measures.

Introduction



More than a century ago, populist and progressive reformers began a decades long fight to implement initiative and referendum in the United States. The initiative process, reformers believed, would enable organized citizens to circumvent entrenched legislatures and recapture democracy by writing their own laws without the intercession of elected officials. Direct democracy's pioneers believed that wealthy interests, particularly corporations, exerted an undue influence over state legislative campaigns effectively drowning out the voices and interests of ordinary voters. Over the years, ballot initiatives have often accurately reflected the most pressing popular concerns in their jurisdictions, and their use has been a barometer of popular discontent with state legislatures.

Today direct democracy's pioneers might not recognize the process they created. The costs of modern political campaigning, including paid media, mass mailings, and polling, coupled with increasingly stringent initiative qualification standards have largely limited direct democracy to the most well organized and well-heeled special interests. Wealthy individuals and institutions routinely spend millions each election cycle trying to alter public policy via ballot initiative. In 1998 alone, ballot committees spent \$400 million supporting or opposing ballot measures. By comparison, the national Republican and Democratic parties raised only \$193 million in "soft money." In a 2000 pilot project conducted by the Ballot Initiative Strategy Center Foundation (BISC Foundation) tracking initiative donors in seven states, ballot committees raised over \$109 million. Over 57% of the contributions were raised in quantities of \$50,000 or more.

While the passage of federal campaign finance legislation that places strict limits on soft money contributions and the Enron scandal helps shed light on the problem of money in candidate campaigns, little attention is paid to the millions of largely unregulated dollars spent on ballot initiatives each year. And the problem may soon grow worse. Since the courts have struck down laws that limit contributions to ballot campaigns wealthy donors can use initiatives to regain a foothold in the influence buying market. As former Washington State Supreme Court Justice Phil Talmadge recently noted, "in the 1990's...special interests decided it was a lot cheaper to buy initiatives than buy legislators."

With the courts effectively standing in the way of initiative contribution limits, mandatory electronic filing and better disclosure laws can help voters make more informed decisions about the critical issues they face in the polling booth each election.

WHY DISCLOSE INITIATIVE DONOR DATA?

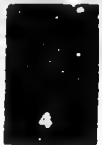
Disclosing initiative donor data is important because voters gain insight into the economic and special interests at stake in a ballot question. Understanding these interests is particularly important in ballot campaigns because the considerations voters weigh when casting a ballot measure vote differ from the factors that influence their decision in candidate races. Since initiative campaigns are nonpartisan, voters lack the political party cues that help them choose between candidates. Moreover, there is generally no candidate associated with an initiative

campaign; voters must examine initiative proposals absent this human link. Ballot titles are often misleading and voters may be unsure about an initiative's effect on public policy. Finally, many ballot measure campaigns often receive less media coverage than candidate races and there are fewer initiative campaign debates. Given these unique challenges, voters depend more heavily on organizational endorsements and an awareness of the chief funders of a ballot measure effort when casting their vote.

QUALITY ONLINE DISCLOSURE IS CRITICAL

BISC Foundation focused principally on evaluating online ballot measure donor disclosure practices in the 24 ballot measure states and the District of Columbia. State agencies charged with disclosing initiative donor data often make initiative campaign finance information available on paper in their office, or in electronic form on the Internet. Since the average voter has neither the time, nor the expertise to travel to their state capital to examine hundreds of pages of campaign filing reports, voters, reporters, and opinion leaders are increasingly relying on the Internet for campaign donor information. Though many voters do not have access to the Internet, most do obtain information about ballot measures from television and newspaper articles, organizations and leaders they trust, and family and friends. Since reporters and voter education groups generally obtain ballot measure donor data from the Internet, online disclosure is the most efficient and cost-effective way to reach as many voters as possible.

Unfortunately, the evidence compiled in this report clearly demonstrates that most initiative states' donor disclosure practices are woefully inadequate and fail to provide citizens with the initiative funding information they need in order to cast informed votes on Election Day. Campaign finance reformers must begin to focus greater attention on improving ballot measure disclosure.



How to Use this Report

BISC Foundation's research is the first comprehensive effort to document online initiative donor disclosure practices in the 24 states with the ballot measure process. We believe that BISC Foundation's findings serve several purposes.

Campaign Finance Reform Advocates can use the state-by-state analysis and model guidelines as a blueprint for reform in their state.

Journalists can use BISC Foundation's research to evaluate existing and proposed initiative campaign finance disclosure regulations more critically and better understand the effects of federal campaign finance reform on ballot measure financing.

Researchers and Academics will have less difficulty obtaining and analyzing raw initiative donor information if policy recommendations in this report are adopted.

State Disclosure Agencies can use our state-by-state analysis and our model guidelines to learn about effective disclosure practices in other states and avoid disclosure pitfalls as they improve their own disclosure programs.

Voters will benefit from a better understanding of disclosure laws and, if policy recommendations in this report are adopted, gain greater access to initiative donor data prior to Election Day.

disclosure



Methodology

Three guiding principles informed the evaluation of online disclosure programs and provided a foundation for the creation of the survey criteria. In order to best serve voters, states should adopt disclosure policies that:

- **Guarantee timely disclosure**
- **Provide donor data in a clear and easily accessible format**
- **Clearly link ballot measure committees to their related ballot initiative(s)**

The survey was designed to assess the ability of state disclosure agencies to adequately disclose ballot measure donor data through their websites (typically accessed from the state's secretary of state web page). The criteria developed from the above principles relate to specific features of disclosure websites and to the requirements that govern disclosure programs. The criteria are divided into the following general categories:

- **Filing Requirements**
- **Data Quality**
- **Voter Access**
- **Data Format**

All states were evaluated using the same criteria and standards. Although disclosure sites were evaluated early in the election cycle, BISC Foundation paid particular attention to how disclosure sites would perform throughout the year, particularly in the weeks leading up to Election Day.

Survey data was gathered from February through May 2002. Online disclosure practices were evaluated based on extensive phone interviews with disclosure agency staff, evaluation of the statutes governing donor disclosure, thorough investigation and "test driving" of state disclosure websites, and additional, web-based research.

Ballot initiative and donor disclosure terminology varies from state to state and can be confusing. For a complete list of technical terms used throughout this report, please refer to the Glossary of Terms in Appendix B.

"The legislature never gives us the money to actually post donor data.

We have to use creative budgeting to get the work done."

- DISCLOSURE AGENCY STAFF MEMBER

KEY FINDINGS: HOW DONOR DISCLOSURE PRACTICES FALL SHORT

While a handful of states provide excellent initiative donor disclosure resources, a series of flaws, enumerated below, critically weaken complete, transparent initiative campaign finance disclosure in the 24 initiative states. Not surprisingly, many states share the same difficulties. Initiative donor disclosure databases are often difficult to navigate. There is often no clear link between ballot committees and the initiatives to which they are related. Donor data is often poorly organized, labeled, or not made available in a timely fashion. These and other disclosure problems hinder voters' ability to evaluate a ballot measure's financial supporters.

RECURRING INITIATIVE DISCLOSURE WEAKNESSES:

Disparities between candidate and ballot committee disclosure practices. Disclosure agencies often place a higher priority on keying and posting candidate donor and lobbying data. Ballot committee names are often more misleading than candidate committee names, yet states seldom clarify for voters which initiatives ballot committees support or oppose. This disclosure problem, unique to ballot initiatives, is made worse when disclosure sites are not well organized and lack adequate search options and summary data. States also fail to compensate for structural differences between candidate and initiative campaigns. For example, many states fail to capture contributions made during the critical signature-gathering phase of an initiative campaign. States could vastly improve initiative donor disclosure by closing the gap between candidate and ballot measure disclosure.

Limited mandatory electronic filing. The benefits of electronic filing include more timely reporting, accurate disclosure for the public, less work for disclosure agency staff, and lower long-term costs for states. So many of the disclosure problems highlighted in this report would be ameliorated, if not eliminated, if states adopted mandatory electronic filing. Four of the six states with mandatory electronic filing rank in the top four in BISC Foundation's survey. Optional electronic filing programs result in low participation, strained disclosure staff, and slow, potentially inaccurate data entry. States should implement optional electronic filing programs as an interim step toward mandatory electronic filing.

A lack of legislative leadership in improving initiative donor disclosure. Initiative campaign finance observers might assume that disclosure agencies are chiefly to blame for inadequate initiative donor disclosure practices. BISC Foundation found, however, that disclosure practices fall short largely because the laws that regulate disclosure are inadequate and because disclosure agencies are chronically underfunded and understaffed. In fact, BISC Foundation identified a strong correlation between a disclosure agency's resources and its ability to effectively disclose initiative donor data. Washington, California, Massachusetts, and Illinois, the top four states in BISC Foundation's survey, have the most disclosure agency staff.

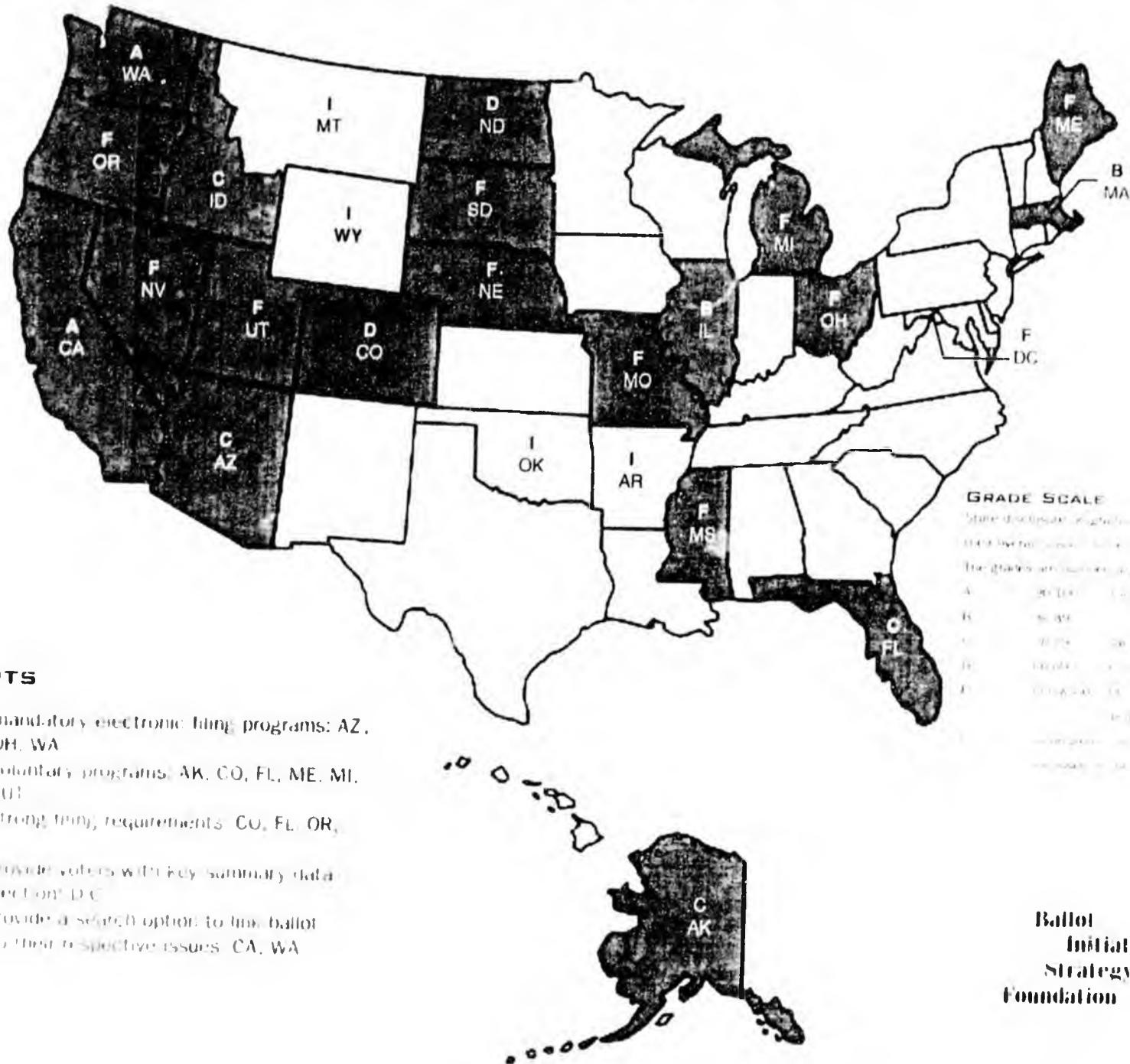
members. Legislatures, not state disclosure agencies, are chiefly responsible for drafting comprehensive disclosure laws. Though most disclosure agencies could make a handful of free or low-cost improvements to their disclosure programs, they generally do the best they can with limited resources and staff.

The experience in New Jersey is informative. Although not an initiative state, New Jersey's disclosure agency—New Jersey Election Law Enforcement Commission—has pioneered the way among the states in developing a complete and accessible electronic disclosure system of all campaign financial activity, including legislatively-referred ballot measures. The agency has done so on its own initiative, without any explicit statutory requirement. New Jersey's system of complete financial disclosure has almost become too good, as indicated by the legislature's cutting back on appropriations to the disclosure agency.

SUPPOSE YOU ARE A VOTER TRYING TO USE YOUR STATE'S DISCLOSURE WEBSITE TO FIND OUT ABOUT A GIVEN BALLOT MEASURE. REGARDLESS OF THE STATE YOU LIVE IN, YOU ARE LIKELY TO EXPERIENCE SOME OF THE FOLLOWING SCENARIOS:

- * You may not be able to find the disclosure database or search options because of poorly worded or vague links. Ballot committees or initiatives may not be referenced at all on the disclosure website.
- * You may not be able to determine which committees are involved in ballot campaigns, or which ballot measures a ballot committee supports or opposes.
- * You may have to search the files of every political committee listed online—searching by committee names you are unfamiliar with—to be sure you've viewed all possible sources of ballot measure funding.
- * You may have to spend several hours clicking and searching through empty files or poorly organized lists to find out which committees and donors are spending the most money, or to identify out-of-state ballot measure donors.
- * If you want to find out how much money is being spent on ballot measures, you may have to tally the figures of all the committee reports manually.
- * You may not be able to view complete donor data for months at a time not until election week, and possibly not until after Election Day.
- * The donor data you find may not be complete or accurate, with major loopholes allowing groups to avoid filing proper disclosure statements.

Ballot Initiative Disclosure Report Card



HIGHLIGHTS

- States with mandatory electronic filing programs: AZ, CA, IL, MA, OH, WA
- States with voluntary programs: AK, CO, FL, ME, MI, MO, ND, OR, UT
- States with strong filing requirements: CO, FL, OR, WA
- States that provide voters with key summary data prior to the election: DC
- States that provide a search option to link ballot committees to their respective issues: CA, WA

GRADE SCALE

State disclosure of ballot issue grades according to the letter grade system is as follows:

The grades are assigned as follows:

A	20/100	IL, WA
B	50/100	MA
C	70/100	CA, FL
D	100/100	CO
F	0/100-90	AK, AR, HI, IA, IN, MI, MN, MO, NY, OH, OK, OR, RI, SD, TN, TX, VA, VT, WI, WV, WY

Ballot Initiative Strategy Center Foundation

Detailed State Scores

State	Filing Method	Filing Schedule	Donor Data Posted Online	Complete Donor Data	Historical Donor Data	Summary Filings	Time Disclosure	Has Data < 4 Years	Database > 4 Years	Has Data < 4 Years	Database > 4 Years	Has Data < 4 Years	Database > 4 Years	Year of State Contribution	CC Third Party Expenditure Disclosed	EC Date Submitted Disclosed	Has Data < 4 Years	Score	Extra Credit	EC Total Score	Ranking	Grade
WA	5	3	5	5	2	1	3	3	2	3	3	3	3	Y(3)	Y(3)	Y(3)	35	90	9	99	1	A
CA	3	1	5	3	3	2	3	3	3	3	3	3	2	N	Y(3)	Y(3)	35	90	6	96	2	A
MA	5	1	5	5	2	2	5	3	2	2	2	3	2	Y(3)	N	N	31	79	3	82	3	B
IL	3	1	5	2	2	1	3	2	3	0	2	3	3	Y(3)	Y(3)	Y(3)	28	72	9	81	4	B
ID	1	2	3	2	2	1	5	3	3	0	2	3	3	N	N	Y(3)	28	72	3	75	5	C
AZ	3	2	5	2	3	0	3	2	3	0	1	3	2	N	Y(3)	Y(3)	27	69	6	75	6	C
FL	2	5	1	5	2	1	1	3	2	2	3	2	2	Y(3)	N	N	27	69	3	72	7	C
AR	2	1	1	3	3	2	2	2	3	2	2	2	1	N	Y(3)	N	27	69	3	70	8	C
RI	2	0	5	2	2	0	2	2	3	1	1	3	3	N	N	Y(3)	24	62	3	65	9	D
CO	2	5	3	2	2	0	3	1	2	1	2	1	1	N	N	Y(3)	23	59	3	62	10	D
MO	2	2	3	2	1	1	3	1	2	1	1	1	1	N	N	Y(3)	21	54	3	57	11	F
SD	1	0	5	5	1	1	3	0	3	0	1	3	0	N	Y(3)	Y(3)	19	49	6	55	12	F
MI	2	0	5	2	1	0	3	1	3	0	1	1	1	N	Y(3)	Y(3)	18	46	6	52	13	F
OH	5	0	5	2	1	0	3	3	2	0	0	0	1	Y(3)	N	N	18	46	3	49	14	F
NH	1	2	5	2	1	0	2	1	2	1	0	0	1	N	Y(3)	Y(3)	16	41	6	47	15	F
DC	1	1	5	1	0	3	3	0	3	0	0	1	0	N	N	N	16	41	0	41	16	F
MN	5	2	5	2	1	0	2	0	3	0	0	0	0	N	Y(3)	N	14	36	3	39	17	F
NV	1	0	1	2	1	0	2	0	3	0	1	1	0	N	Y(3)	N	12	31	3	34	18	F
VT	2	1	0	0	1	1	0	0	2	0	1	3	2	N	N	N	15	33	0	33	19	F
ME	2	2	0	0	0	0	0	0	1	0	1	1	3	N	N	Y(3)	10	26	3	29	20	F
WV	2	5	0	0	1	1	1	0	3	0	0	0	0	N	N	N	11	28	0	28	21	F

For a complete explanation of ranking criteria refer to Appendix A on page 12

"The key to the whole thing is mandatory [electronic filing]."

— DISCLOSURE AGENCY STAFF MEMBER



DETAILED FINDINGS

BISC Foundation's critique highlights our chief concerns with the state of initiative donor disclosure practices. The analysis is divided into four topics: filing requirements, data quality, voter access, and data format.

FILING REQUIREMENTS

Electronic Filing: Committee reports are submitted either on paper (typed or handwritten), or electronically. Paper filings are either scanned or manually entered into a database by disclosure agency staff. Scanned reports tend to be less flexible from a researcher's point of view because data cannot be searched or sorted. Accessing scanned files can be slow and cumbersome, and the handwritten data is sometimes illegible. On the other hand, paper reports that are manually keyed by disclosure agency staff may contain more errors than scanned or electronically filed reports and tend to drain disclosure agency staff resources.

Although optional electronic filing is a step in the right direction, most committees tend not to participate in voluntary electronic filing programs. A survey of electronic reporting systems across the nation found that all state voluntary reporting systems have fewer than a third of all committees filing electronically; a quarter of these optional systems have a median of one percent of their committees filing electronically.¹ Low electronic filing participation rates force disclosure agency staff to enter data manually, a particularly labor-intensive activity. In addition, disclosure agencies that display some data in a database and other data on scanned forms force voters to search for data in two places. A handful of states with optional or partial electronic filing programs hope to change to a mandatory system in the coming years.

Mandatory electronic filing is not necessarily a prerequisite for good disclosure, but its benefits include more timely, accurate disclosure for the public, less work for disclosure agency staff, and lower long-term costs for states. Mandatory electronic reporting also makes it easier for states to require 24-hour reporting by committees in the last two weeks of the campaign.

¹ For more information on the benefits and costs of electronic filing programs, see the Brennan Center for Justice's excellent report [Access Denied: Electronic Reporting of Campaign Finance Activity](#), written by Craig Holman and Robert Sherris.

Ballot Committee Filing Deadlines: Filing schedules vary widely from state to state. The best states require regular committee reporting (Colorado, Florida, Oregon, Washington) while the worst states leave voters guessing who's funding ballot measures until late October (Michigan, Nevada, North Dakota, Ohio, South Dakota). Gaps in the filing schedule, particularly near the election, substantially limit full and accurate disclosure. Filing deadlines in the spring and summer months are also important for tracking activity during the crucial signature gathering period of ballot campaigns (discussed below).

Signature Gathering Phase Disclosure: A significant amount of money is typically raised and spent during the signature-gathering phase of an initiative campaign. Voters deserve to know who is bankrolling this critical period of a ballot measure campaign, yet many states do not disclose signature gathering phase contributions until much later in the cycle. South Dakota does not disclose signature gathering phase contributions at all. Alaska allows committees to disband and reform to avoid reporting signature gathering phase contributions.

Furthermore, ballot committees cannot report the number of the initiative they are supporting or opposing until their initiative qualifies and the state assigns such a number. As a result, even when states require reporting during the signature-gathering phase, the relationship between ballot committee names and initiative designations is unclear.

Third Party Ballot Campaign Expenditures: Rather than directly contributing to a ballot committee, some institutional and individual donors may choose to make a third party or "independent expenditure" on behalf of a ballot measure campaign. States define independent expenditures differently but generally define expenditures to be independent if they are not made in cooperation, consultation, or concert with, or at the request, suggestion, or prior consent of a candidate or committee. Though most states do not report a large amount of independent expenditures around ballot measure campaigns, the popularity of this seldom used electoral tool could increase in the wake of the federal campaign finance reform legislation as former federal soft money donors, seeking new paths to influence policy, dump millions into ballot campaigns around the country. Washington State reported over \$1 million in third party expenditures on ballot measures in 2000.

In states where interest groups use third party expenditures to influence ballot measure outcomes, several disclosure problems exist. Florida, Massachusetts, Missouri, and Oregon do not disclose third party expenditures on line while other states post these reports in a different section on their websites. In Idaho, third party expenditure reports are not filed until five days prior to the election.

Organizations and individuals may also begin to use "527" groups, so named by the IRS code under which they are regulated, to influence ballot measure outcomes since these federal political entities fall outside the jurisdiction of state disclosure laws and because the "527" contribution disclosure feature on the IRS website is very weak.

"501 (c)" Organization Disclosure Loopholes: Some ballot initiative proponents receive contributions from 501 (c)3 and 4 organizations (so named by the section of the federal tax code under which they are organized). Though contributions to 501 (c)3 and 4 groups over \$5,000 must generally be reported to the Internal Revenue Service, that contributor information is, under most circumstances, not made available to the public. Ballot initiative funders who wish to remain anonymous can pass their donations through 501 (c) groups that contribute to ballot committees. For example, affirmative action opponent Ward Connerly received nearly \$1 million in contributions from his 501 (c) organization, the American Civil Rights Coalition, for his "racial privacy" ballot proposition in California. Reconciling the tension between a nonprofit's interest in protecting the privacy of its donors and the public's need for complete disclosure will be difficult to resolve. Thus far, the courts have sided with the privacy concerns raised by nonprofits.

Individual Donors from Out-of-State Groups: Voters deserve to know when out-of-state interests are involved in ballot campaigns, but tracking out-of-state contributions made to ballot measures can be difficult. This is largely due to states' unwillingness to require out-of-state donors to comply with in-state reporting requirements, and to website formats that do not allow voters to search by out-of-state committee data. Only five state disclosure sites (Florida, Illinois, Massachusetts, Ohio, and Washington) allow voters to search for out-of-state ballot contributors (California offers a sorting option within individual committee listings).

Some states require that out-of-state committees adhere to the same filing standards as in-state committees, whereas Maine and Utah require that out-of-state committees file by the committees' home state guidelines. Oregon only requires out-of-state committees to disclose individual donors if they spend more than two-third of their total funds in Oregon. There are several states that do not require out-of-state committees to disclose individual donor information at all.

Late Filing Penalties: Late filing penalties range from mild to severe and not surprisingly, there is a loose correlation between late filing penalties and committee compliance with filing schedules. North Dakota, for example, imposes no penalties and is still waiting for committees to file their 2001 year-end reports, while next door in South Dakota, where filing late is a Class 2 Misdemeanor, committees file on time. Election officials generally do not seem to regard this as much of a problem, but if a committee wanted to conceal its financial information until after the election, in most states it would constitute a relatively minor investment.

Reporting Form Weaknesses: In order to allow voters to search by initiative number in a donor database, state disclosure agencies must require that committees clearly indicate the ballot measure they support or oppose on their official reporting form. Some states do not require committees to specify their purpose on reporting forms and, as a result, will have a harder time should they choose to link committees to particular ballot measures in the future.

Massachusetts approaches this problem differently by requiring that committee names reflect the policy that they are working for or against (Citizens for More School Funding, for example). This approach also answers the concerns of many who believe that committee names are misleading. Some corporate lobby groups like the Pharmaceutical Research and Manufacturers of America (PhRMA) create committees with names like "The Consumer Alliance" that are clearly designed to intentionally mislead voters by cloaking the committee's chief financial sponsors. Voters in Florida, for example, may be surprised to discover that the "Committee for Responsible Solutions" has one donor, the tobacco giant Philip Morris.

DATA QUALITY

Donor Information Requirements: Most states require that any committee (often defined as two or more individuals) that raises or spends money for or against an initiative register as a ballot committee and file regular reports with their state's disclosure agency. Ballot committees are generally required by law to report certain kinds of information about their donors, and these requirements vary from state to state. Most states require that committees report the name, contribution amount, and address of their donors. However many states (in contrast to the Federal Election Commission), fail to require two pieces of critical information: occupation and employer. Employment information allows researchers to track the economic interest of every contributor, whether a business, PAC or individual, so that the public can assess the political leverage that money from those interests exerts on policy decisions. Employment information also helps researchers identify "bundling," the process by which employees from one corporation band together to raise money for a ballot measure. While completely legal, employee bundling can obscure a corporation's involvement in a ballot measure campaign.

Historical Information: Voters and researchers use historical donor data from prior elections to identify trends in ballot funding, and to recognize and track active donors over time. Ballot advocates may refer to historical donor data to identify potential financial supporters. Although most disclosure sites offer some initiative campaign finance information from previous elections, very few offer comprehensive, searchable historical databases or additional analysis and charts. Most states simply lack the resources to enter and post historical data, particularly donor information filed prior to the creation of their on line disclosure programs. Most disclosure agencies do not post donor information from elections prior to 1998.

Summary Information: Summary data helps voters and reporters quickly obtain the most important funding information about ballot measures by providing a snapshot of an initiative's financial activity. Most voters do not have time to dig through committee reports to identify major donors to ballot measure campaigns. Unfortunately, most disclosure agencies do not post comprehensive summary donor data. Since most states do not require that committees file cumulative reports, voters must add figures from a series of reports in order to generate contribution and expenditure totals, top 10 contributors, average expenditures, or out-of-state contribution totals. Some states aggregate committee expenditure and contribution totals, but only the Alaska, California, the District of Columbia, and Massachusetts disclosure agencies provide extensive summary information.

Summary data that is not made available until after an election is of little use to voters. The District of Columbia is the only jurisdiction that posts summary data prior to Election Day. Virtually every state needs to drastically improve the availability and quality of key summary figures.

VOTER ACCESS

Timeliness: Delayed access to donor data severely hampers voters' ability to make informed decisions about ballot questions. Voters must have access to complete donor data—within days of filing deadlines—throughout the election cycle and prior to Election Day. Several variables affect the timeliness of donor disclosure: campaign finance reporting schedule, filing method, disclosure agency staff size, and initiative volume. While most states post donor data within two days, a handful of states may take several weeks or more to post data. Delays are generally due to budget or staff constraints, or voluntary electronic or paper filing, which forces disclosure staff to manually key data into a database.

Data Accessibility: In some states, voters may have difficulty simply finding the disclosure website and database within it. The link to the disclosure agency's site may be difficult to find or poorly labeled. The site may not reference ballot measures anywhere and relevant search options, historical information, or the database itself may also be poorly labeled. As of May 2002 the Maine disclosure agency failed to post a link from its homepage to its own disclosure database site located at an entirely different web address.

Downloadable Data: voters and researchers should be able to download initiative donor data in a commonly recognized format at no cost. Researchers use raw data to conduct comparative studies with other donor data and to manipulate the data as they see fit. Most disclosure agencies do not allow voters to download initiative donor data. Disclosure agencies that scan files cannot give voters the option to download and manipulate raw data—another shortcoming of scanned file sites.

DATA FORMAT

Ballot Committee/Ballot Number Link: Most disclosure agencies fail to link ballot committees to their respective ballot initiatives, largely because it is not a typical filing requirement, as discussed above. This critical disconnect severely limits the ability of donor data and may be the single most important and consistently neglected aspect of online initiative disclosure. Candidate committee names like "Jane Doe for Congress" leave little room for confusion—clearly, that committee supports Jane Doe's candidacy. In the ballot measure arena, however, voters who are familiar with the ballot initiative may not know what the related ballot committee is named. It may not be obvious, for example, that the "Committee for Arizona's Future" supports eliminating the state income tax. Disclosure agencies expend significant resources disclosing initiative donor data, yet when that data appears absent any context and voters are left to guess which committees support or oppose which ballot measures, the value of that data is greatly diminished. Only California and Washington provide a direct link between committees and ballot numbers as a permanent and obvious search feature in their donor databases. Florida provides a link between the ballot title and sponsoring committee. Some disclosure agencies provide a separate list of committees and the ballot numbers to which they are related, a less desirable solution.

Querying Databases: A well designed database allows voters and researchers to search data by a range of criteria quickly and easily. The best databases allow voters to search by initiative designation (states usually assign a number to each ballot measure though some use letters), employer, occupation, state, election year, contribution amount, filing date, and several other criteria. These options give voters the greatest flexibility and access to donor data. However, most donor databases only allow voters to search by committee or by filing date. These two options are inadequate. If voters can only search by committee, they must know the names of relevant ballot committees to conduct an effective search. Most voters are unfamiliar with ballot committee names (as discussed above), and

particularly when there are many, undifferentiated committees, voters will have difficulty finding the data they want. The results of a filing deadline search only cover a limited period, and voters still need to know the relevant committee name to conduct the search. Voters may have to search for hours to obtain a complete picture of a ballot committee's financial activity.

Sorting Ability: Sorting enables voters to view retrieved data as they see fit. For example, voters may want to sort contributors by state to identify out-of-state donors, or by contribution amount to pinpoint the top donors to a ballot campaign. Sorting by amount is perhaps the most important sort option, as most voters are likely to be interested in viewing major contributions and expenditures. Without this option, voters must dig through pages of files to find major donors. Many donor databases do not include sorting options and disclosure agencies that post scanned data cannot provide a sort option at all—one of the many limitations of "scanned files."

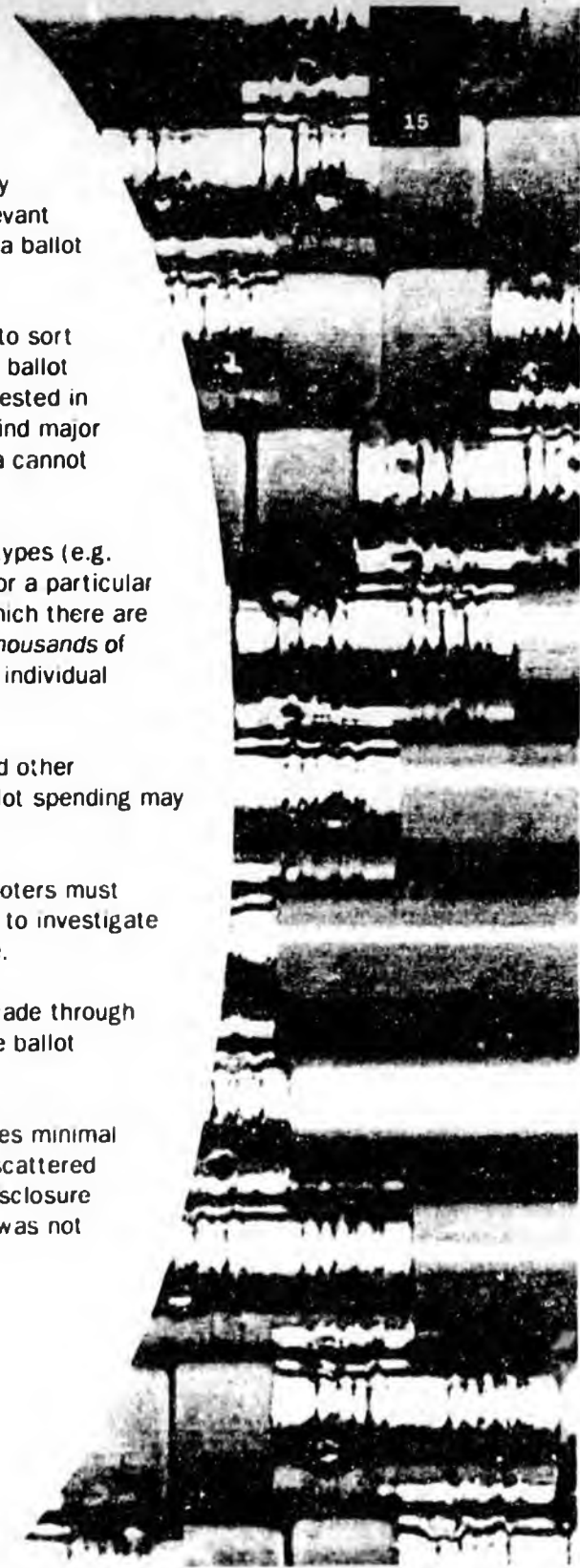
Ballot Committee Identification: Many disclosure agencies do not physically separate different committee types (e.g. PACs, candidate committees, political party committees, ballot committees, etc.), complicating any search for a particular ballot committee. Voters may have a difficult time conducting ballot measure finance research in states in which there are many committees, or where voters may only search by committee name. Ohio and Oregon, for example, list *thousands* of PACs, and do not clearly differentiate those that are involved in ballot measure campaigns. Voters must open individual committee files to determine committee type.

The problem is compounded when states make no meaningful *legal* distinction between ballot committees and other committee types. If any committee type can campaign directly for or against an initiative, voters tracking ballot spending may not know where to conduct their research or when their research is complete.

In states that allow standing PACs and other committee types to make contributions to a ballot committee, voters must conduct two waves of research: one to identify principle donors to the ballot question committee and another to investigate the donors to political committees that have themselves made contributions to the ballot question committee.

Disclosure agencies also tend to keep dormant committees on their ballot committee lists forcing voters to wade through pages of empty reports to locate active committees. Overall, disclosure agencies that fail to properly organize ballot measure donor data are effectively limiting voters' access to information.

Database Navigation: Voters should be able to obtain donor data easily, from an intuitive website that requires minimal searching and clicking. Many disclosure sites fail this simple web navigation test. Donor information may be scattered about the site, difficult to locate, or require too many mouse clicks to access. As of June 2002, Colorado's disclosure database had good sorting options but it was not immediately obvious that they existed because the feature was not clearly identified or labeled.





STATE-BY-STATE ANALYSIS

Many of the disclosure agency staff we surveyed were in the midst of reform, updating online databases, improving disclosure features, or modernizing their websites. As a result, the State Analysis merely provide a snapshot of online initiative donor disclosure in the 24 states with the ballot measure process. The individual state summaries are rather basic and intended to assist disclosure agencies and reform organizations identify the challenges to complete, transparent online ballot measure donor disclosure in their state. An explanation of the criteria by which states are evaluated and a glossary of terms can be found in Appendices A and B.

BISC Foundation recognizes that many of the recommendations listed below are dependent on legislature enacted policy and can only be implemented with adequate funds and staff. Still, most state disclosure agencies can improve the overall quality of initiative donor disclosure by implementing a handful of website format changes or adding critical missing features to their donor databases.

Four of the 24 states with the initiative process — Arkansas, Montana, Oklahoma, and Wyoming — do not post any initiative donor data online at all.

ALASKA



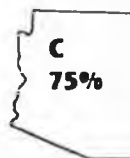
The Alaska Public Offices Commission (APOC) website has great potential to be a model disclosure resource, with some of the best historical and summary information, a strong database and good search options. However, the current electronic filing system is "nearing its limits," and the development of a new web-based system — and the general quality of disclosure in Alaska — may be jeopardized by budget cuts.

Challenges:

- Accessing the donor data is tedious, requiring many mouse clicks over many separate pages to access the desired data.
- There is no permanent feature or search option for linking ballot committees to their respective issue (although committee summary data and third party expenditures are organized by issue).
- There are no sorting options.

- Although PACs involved in ballot campaigns are labeled as "Ballot Measure Groups," PACs are also involved in candidate campaigns.
- Contributions over \$250 made in the last nine days of the cycle must be reported within 24 hours, but that data is not disclosed online until after the election.
- Committees can "disband" and rename to avoid reporting signature gathering phase contributions.
- The electronic filing program is optional; most committees do not participate.
- There is a large gap in the filing schedule, from February 15 to 30 days prior to the election.

ARIZONA



Arizona's Division of Elections boasts some of the best historical data, mandatory electronic filing, and a strong database. The Secretary of State recently mandated the distribution of election pamphlets (available in Spanish) to all Arizona residents. The names of the top four donors

to ballot measure campaigns must be included on all campaign materials.

Challenges:

- There is no permanent feature or search option for linking ballot committees to their respective issue (although historical data is organized by ballot number). Ballot committees are not required to disclose the issue they support or oppose on any of their reports.
- The only search option is a committee search; there are no sort options.
- There is no summary data.
- Some of the historical data ("Contributions of \$10,000+") is separate from the main database and difficult to find.
- Donor data does not include contributor's address.
- There are large gaps in the filing schedule from January 31 to June 30, and from August 29 to October 10.

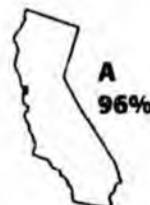
ARKANSAS



The Arkansas Ethics Commission does not post ballot initiative donor data online. The Commission does post scanned files for candidate committees, but ballot initiative data — back to 1992 — can only be viewed in the paper files, which are organized by committee

name, in the Ethics Commission offices. There are no summary figures available. Committees are required to file monthly after registering, again seven days prior to elections, and 30 days afterwards. Arkansas should begin to disclose ballot initiative donor data online.

CALIFORNIA



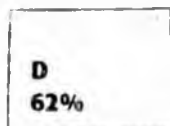
The Cal-Access site, a service of the California Secretary of State's Political Reform Division is an excellent ballot initiative donor disclosure resource. The donor database has multiple search and sort options and the raw data can be downloaded. Ballot committees are organized by initiative, there is

excellent summary and historical data; and electronic filing is mandatory for committees raising over \$50,000 (this threshold may be lowered to \$10,000, although it is unlikely that an initiative could get off the ground in California for less than \$50,000). Cal-Access is planning to provide a free online filing program by January 2003.

Challenges:

- Summary data is difficult to find, separate from the main database under "Political Reform Page"
- Though voters can search donor data by initiative and sort by multiple criteria, search options for ballot measure data could be expanded.
- There is a large gap in the filing schedule for the general election, from the January 31 year end report to October 5 (the primary election filing schedule is slightly better).

COLORADO



The Colorado Secretary of State's Election Center recently launched a new online disclosure database and Colorado has some of the best filing requirements in the country. Ballot committees file regularly throughout the year and five times in September and October. Voters

can request copies of the database on a CD or download campaign finance reports. Electronic filing was made optional in 2000, but there do not appear to be any plans to make it mandatory. The absence of electronic filing hurts what is otherwise an excellent disclosure program.

Challenges:

- Once initiatives qualify, the Election Center lists committees by issue, but there is no permanent feature or search option that links ballot committees to their respective initiatives.
- The only way to search is by committee, and voters must know the name or partial name of the committee they are searching to conduct an effective search.
- The link for viewing scanned files is difficult to find and voters may not realize that they may have to refer to the database and the scanned files to obtain complete committee data. The link for the disclosure database is somewhat unclear.
- The data sorting options are decent, but they are not labeled and it is not immediately obvious that they exist.
- Historical data is only available in unsorted, downloadable Excel files that are difficult to use since contributions are designated by committee ID number, not by initiative number or committee name. The state does not make summary figures available.
- Issue committees are not the only committee type that can be involved directly in an initiative campaign.
- Since electronic filing is optional, many committees do not appear in the database until their data has been entered manually (which may take two-four weeks).

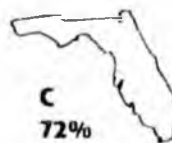
DISTRICT OF COLUMBIA 41%

The District of Columbia's Office of Campaign Finance has a relatively new on-line disclosure program and donor information, posted in PDF files, only dates back to 2000. The office has recently added an excellent data summary feature for candidate committees and plans to provide summary data for ballot committees.

Challenges:

- There is no permanent feature or search option for linking ballot committees to their respective issues.
- Donor data does not include contributor's address.
- There is no way to search or sort committees, other than by filing date. Initiative donor data is difficult to isolate because all reports from a wide range of committees are posted one after another as lengthy scanned files without any clear separation between committee types.
- There is no historical data for initiative committees.
- Ballot committees are not the only committee type that can be involved directly in an initiative campaign.
- There are no immediate plans for an electronic filing program.
- The only set filing dates prior to the elections are four months, two months, and eight days prior.

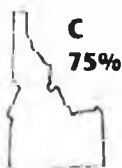
FLORIDA



The state's Division of Elections does an admirable job with limited resources. Their database has excellent search and sort options, raw data can be downloaded, and the filing requirements are very good. The disclosure agency maintains a list of ballot initiatives and their respective sponsors. The agency also maintains separate "committees" database that allows voters to search by issue (e.g., animal protection, banking, civil rights, etc.). They and a legislature recently passed legislation that improves filing requirements for political committees.

Challenges:

- Ballot committees are linked to initiatives in a separate "committees" database, but it is not immediately clear that the link is a searchable database.
- The "committees" database allows voters to search by issue, but a general committee search yields a lengthy list of committees that are not sorted by type.
- Summary data could be expanded (although a sorting option allows voters to view ballot committee contribution totals).
- There is no mention of ballot initiatives or which groups (PACs) are involved in ballot initiatives in the campaign finance database.
- Third party expenditures are not yet disclosed online.
- Although electronic filing is technically mandatory, committees are exempt if they claim to be "unable" to comply — and most do.
- Since most committees do not file electronically, the disclosure agency is hard pressed to key large volumes of committee reports within a few weeks of the filing deadlines, this severely limits the utility of an otherwise excellent database.
- Although the state has improved ballot committee filing requirements, corporations and other businesses do not have to register or file as a committee if they do not solicit outside funds to support or oppose a ballot measure.

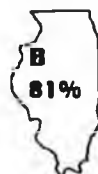
IDAHO

Although Idaho has relatively little ballot activity, the state's Election Division provides a solid disclosure resource with limited staff and a simple but effective website. The database has multiple search options (including a "View summary figures" link), and voters can download raw data in an Excel sheet. Users are made

aware of upcoming reporting deadlines and other key campaign finance updates on the agency's website. The legislature may add additional reporting deadlines to the filing schedule.

Challenges:

- There is no permanent feature or search option for linking ballot committees to their respective issue. Ballot committees ("measure groups") are not required to disclose a purpose or issue in their files.
- The summary data could be expanded (committee totals and overall ballot measure spending figures are posted).
- There are no sorting options.
- Third party expenditures are reported five days before an election and 30 days after, which delays full disclosure until after Election Day.
- Although reports are scanned immediately and the data is manually entered in the database within two weeks, an electronic filing system would simplify and improve disclosure.
- There is a large gap in the filing schedule, from July 30 to October 10.

ILLINOIS

The Illinois initiative process is limited to constitutional amendments and "advisory" (non-binding) measures. As a result, advocacy groups tend not to use the process. The last constitutional amendment passed by initiative was in 1980; the last advisory measure was in 1978 (it passed, but was ignored by the legislature). Committees that raise

less than \$25,000 (in a six month period) are not required to file electronically and the state only posts aggregate data from these committees. Since few ballot committees raise more than \$25,000, donor data is usually limited to committee totals. Donor data that is posted is well presented and easy to search. Though the Illinois initiative process is advisory only, other states would do well to disclose ballot measure donor information as well as the Illinois State Board of Elections.

Challenges:

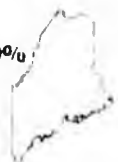
- There is no permanent feature or search option for linking ballot committees to their respective issue.

- Since few ballot committees exceed the \$25,000 electronic filing threshold, the state posts very little ballot committee donor data.

- There is large gap in the filing schedule, from July 31 to October 21.

MAINE

F
29%



The Maine Commission on Governmental Ethics and Election Practices has a new database but may not have the resources to post complete data online prior to the election. The disclosure agency hired temps to enter data for the April 10 deadline but as of June 1 it was uncertain how much data had been posted. The director does not know how long it will take to enter data or whether there will be sufficient funds to enter additional data later in the cycle. The commission is clearly understaffed and there is no relief in sight. Despite Maine's strong ballot initiative tradition, weak disclosure legislation and inadequate resources have paralyzed Maine's disclosure program.

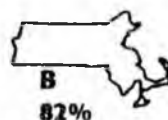
Challenges

- As of June 1, the Ethics Commission had not provided a link to its own donor database; the Commission's site is separated from the Secretary of State's page by three vague links, and there is no clear distinction between the Ethics Commission and the Elections Division.
- There is no permanent feature or search option for linking ballot committees to their respective issue.
- There is no historical or summary data posted online.
- Search options are limited; there are no sort options.
- It is not obvious that PACs are the committee type most often involved in ballot initiatives, although any committee types may sponsor a ballot measure. The lack of distinction between committee types is confusing. A ballot PAC's "purpose" may also be vague or misleading.
- Few committees participate in the voluntary electronic filing program; a mandatory system would alleviate many of the problems listed above.

- out of state committees submit reports according to the filing requirements of their home state.

- There is a large gap in the filing schedule, from July 27 to October 10.

MASSACHUSETTS



The Massachusetts Office of Campaign and Political Finance has one of the best websites for ballot initiative disclosure in the country. The database is well designed with extensive search options, summary information and reports, and raw data that can be

downloaded. A newly re-designed web interface streamlines donor research. Massachusetts's disclosure law requires that committee names reflect the economic or ideological interests of a majority of its contributors. This will be the first year of mandatory electronic filing for committees raising more than \$25,000.

Challenges

- OCPF maintains a separate list of ballot committees, but users must copy committee names or ID numbers and insert them into the donor database to retrieve committee data.
- On the "View Reports by Committee" page, all registered committee names are lumped together.
- The state maintains good historical summary data but does not have a historical donor database.
- The site links and donor data could be more clearly labeled and well organized.
- Third party expenditures are not disclosed online.
- There is a large gap in the filing schedule, from the voluntary January 22 report to September 6, and another gap from October 22 to December 1. The state does not require immediate disclosure of ballot contributions made late in the election cycle.

MICHIGAN



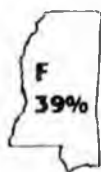
Most of the donor data posted by the Michigan Bureau of Elections is displayed in scanned files. The few ballot committees that opt to file electronically appear in a well-organized database with excellent search and sort options. However, most committees will probably

continue to file on paper and will not appear in the database until December 31, 2004, when electronic filing becomes mandatory.

Challenges:

- There is no permanent feature or search option for linking ballot committees to their respective issue. Although some committees specify their purpose on their statement of organization, it is not required.
- Although ballot question committees are clearly designated, other committee types may become directly involved in ballot measure campaigns.
- Scanned file search criteria are limited to committee name and committee type only and there is no way to organize or separate committees by election year or issue.
- Voters may not realize that they must refer to the database and the scanned files to obtain complete committee data.
- There is no summary information and historical data is not separated from current data.
- There are substantial gaps in Michigan's filing schedule (there are only two filing deadlines prior to the election).

MISSISSIPPI



Ballot initiatives were discontinued in the state of Mississippi from 1922 until 1993. Since the process was reinstated, only two initiatives have qualified for the ballot. The website is difficult to evaluate since there has not been very much donor data to disclose and

there are few references to ballot initiative campaign finance data. Nonetheless, the state has improved its filing requirements and the Elections Division is developing an electronic filing system, which may be launched on a voluntary basis next year.

Challenges:

- The (mostly candidate) data consists of scanned files only.
- The time it takes to post data online — currently up to one week — would be greatly reduced by a mandatory filing system.
- There is no permanent feature or search option for linking ballot committees to their respective issue.
- There is no summary data.
- Voters may only search by filing date and committee.
- PACs are involved in ballot campaigns but may also contribute to non ballot campaigns.
- There is a nine-day "grace period" for late filers, which essentially nullifies the seven day requirement prior to election deadline.
- There are large gaps in the filing schedule, from (ten days after) June 30 to Sept.30, and then not until seven days prior.

MISSOURI



Missouri's Ethics Commission recently launched a new disclosure database and the state is implementing voluntary electronic filing in 2002. Since electronically filed data appears in the database and the rest is scanned, any assessment of the disclosure site has to take into account the quality of both the database and the inherently weaker scanned files system. Nonetheless, Missouri is making substantial improvements in its disclosure program. Requiring mandatory electronic filing would be the next logical step.

Challenges:

- Viewing data in scanned files is slow and awkward; scanned files appear sideways on the screen and the data is sometimes illegible.
- There is currently no permanent feature or search option for linking committees to their respective issue, although the Elections Commission

expressed an intention to post a list of committees by issue once initiatives qualify

- * There are no files available for years prior to 2001, and very little summary data
- * In the database voters can search committee type or committee name, but there are no other significant search options and no sorting options
- * There is no mention of ballot initiatives or of the fact that campaign committees and continuing committees are involved in initiatives. Any committee can give directly to an initiative campaign and there is no meaningful distinction for an "initiative committee."
- * There is no clear link from the Secretary of State's page, the link for scanned files is not as clearly labeled as the link for electronic filings, voters might not be aware of the need to search both to find all committees
- * Out of state committees are only required to disclose donor data of Missouri residents, out of state contributors' information is not disclosed
- * There is no filing deadline in September

MONTANA



Montana does not post ballot initiative donor data on line. Though the state has a decent filing schedule, the Commissioner of Political Practices Office does not provide complete campaign finance information to the

public in any form until weeks or months after filing deadlines. Montana voters generally consider several ballot measures per election and deserve to know who is funding those efforts. Montana needs better disclosure legislation and the CPP needs more financial resources if it is to provide an online disclosure to the public.

NEBRASKA



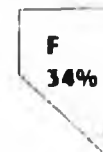
The Nebraska Accountability and Disclosure Commission website has some helpful features including search options for individual and non individual contributors. The Commission plans to improve the site shortly and is

currently testing an electronic filing system that it hopes to implement prior to the 2004 election. The Commission could significantly improve the disclosure site with some key format changes.

Challenges

- * There is no permanent feature or search option for linking ballot committees to their respective issue
- * No summary data is posted online. The Division publishes a booklet with summary figures, proceeds from sales of the booklet support the Division
- * The only way to search is by committee name and if voters do not know the name, a general search produces too many listings, there are no sort options
- * There is no separation of ballot committees and candidate committees, which makes searching even more difficult. Furthermore, ballot committees are not the only groups that can support or oppose an initiative
- * There is no clear link from the Secretary of State's website to the Commission's site; the site links and donor data could be more clearly labeled and well organized
- * There is a large gap in the filing schedule, from June 30 to October

NEVADA



The Nevada Elections Division is currently running a pilot program for an electronic filing system, but it only applies to non-ballot PACs and candidate committees. Recent efforts to improve the state's messenger filing

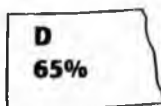
requirements were unsuccessful. Though ballot committees are supposed to file regular reports, they are not legally required to register with the Nevada Division of Elections.

Challenges

- * The disclosure site has scanned files only
- * There is no permanent feature or search option for linking ballot committees to their respective issue. It is not required that committees disclose their exact or purpose when they file

- There is no summary data.
- There is no way to search other than by committee and by third party expenditure.
- Committees are listed with no available disclosure data.
- Ballot advocacy groups are not limited to initiative campaigns and PACs may become directly involved in ballot measure campaigns; in this respect, there is little distinction between committee types.
- Ballot committees do not have to register with the Elections Division.
- Aug 27 and Oct 29 are the only filing dates prior to the election and there is no requirement for prompt disclosure of contributions made late in the cycle.

NORTH DAKOTA



The North Dakota Elections Division is planning to revamp its site before the 2002 November elections; plans include a searchable database with sorting options. The current site is well designed and easy to use. If promised upgrades are completed, North Dakota will have one of the best initiative donor disclosure mechanisms in the country, a commendable achievement for a state that generally sees few ballot measures.

Challenges:

- There is currently no permanent feature or search option for linking ballot committees to their respective issue.
- There are no sorting options.
- There is no summary data.
- Disclosure time will improve when mandatory electronic filing is implemented; currently electronic filing is optional and data is posted "as fast as [Division staff member] Lee Anne can type."
- Third party expenditures are not disclosed online.

- There is no penalty for failing to file: as of April, Division staff were still waiting for January reports to arrive.
- There are only three reporting dates, January 31, May 30, October 24 (although contributions over \$500 made within 20 days of the election must be reported within 48 hours).

OHIO



Ohio Election Services has a disclosure site with a large database, good search and sort features, and great potential. Ohio is one of few ballot initiative states in which electronic filing is mandatory and raw data can be downloaded from the database. Despite these strengths, there are no clear references to ballot committees or initiatives on the site and any ballot measure donor data is buried in a lengthy list of PACs. If voters do not know the specific name of the ballot committee they're seeking, they'll likely have a difficult time finding any ballot measure donor data.

Challenges:

- It is not immediately obvious that ballot measure data is even posted online (the groups are found under "PAC").
- There is no permanent feature or search option for linking ballot committees to their respective issue.
- The few existing ballot committees are not separated from the thousands of other committees
- Voters must know specific committee names to conduct an effective search
- There is no summary or separate historical data (old files can only be accessed once a specific committee has been selected)
- Oftentimes committee data is incomplete or unavailable (Election Services outsources data entry)
- Third party expenditures are not disclosed online
- The only filing deadlines between the year end report and the November elections are April 25, June 14 and October 24; there is no requirement for

prompt disclosure of contributions made late in the cycle.

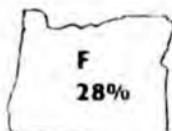
OKLAHOMA



Oklahoma's Ethics Commission does not post ballot initiative donor data online, unless it is filed electronically. When electronic filing was mandatory for a brief period from 1998 to 1999, disclosure data was automatically posted online. Software difficulties compelled the legislature to make the program voluntary. Since then, very few groups have opted to file electronically. Since reports that are not submitted electronically are not posted, very few are disclosed online.

If data were manually keyed, or electronic filing became mandatory again, voters could search by PAC filings, contributions, expenditures, and late contributions. Ballot committees are not organized by issue, or separated from candidate committees and other committee types. Unfortunately, the Ethics Commission has larger issues it still needs to address. Hopefully Oklahoma's legislature will reinstate the mandatory electronic filing requirement and online disclosure program very soon.

OREGON



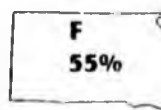
The Oregon Elections Division provides good disclosure resources offline. Data is available in booklet form for a nominal fee, and the Division will mail information to voters on request, but only ballot committee summary figures are posted online. The electronic filing program becomes mandatory in 2004 (currently groups can apply for a "waiver" and most of them do). Electronic filing would enable the Division to post complete donor data online. The Oregon legislature recently passed a law that increases reporting requirements during the signature gathering phase of an initiative campaign.

Challenges:

- The Division only posts summary figures for ballot committees; individual donor data is not available online.
- There is no search option for linking ballot committees to their related initiatives.

- The only way to search is by committee name; a general search produces over 2,000 results.
- There is no separation of candidate committees and ballot committees; voters must open individual committee files to determine their purpose and type.
- The Division takes up to 10 days to manually enter and post the summary figures (most mandatory electronic filing systems enter complete data quickly and automatically). That means that data from the October 23 deadline might not be posted until a day or two before the election.
- Third party expenditures are not disclosed online.
- out of state groups are not required to disclose donor data unless they spend more than two thirds of their total funds in Oregon; large, wealthy groups could have considerable influence and be exempt from disclosing financial information.

SOUTH DAKOTA



The South Dakota Elections Division only posts disclosure data in scanned file format. The Division has a brand new website that is fairly well organized; ballot committees are clearly distinguished from other

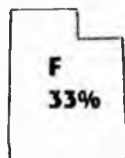
committees, and there are some basic summary figures from past elections. South Dakota is improving its disclosure program. The next logical step would be to introduce an electronic filing program and disclosure database and to enhance the range of summary figures that are available to voters.

Challenges:

- Data is available in scanned files only.
- There is no permanent feature or search option for linking ballot committees to their respective initiative.
- The only way to search is by committee name.
- The historical and summary data is limited to group totals.

- Signature gathering contributions and expenditures do not have to be reported unless there is money left over.
- There is a large gap in the filing schedule, from July 1 to seven days prior to the election.

UTAH

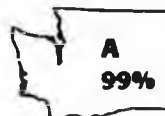


Utah's online disclosure program faces serious challenges. The Elections Office is hoping to post complete donor data for the first time in a brand new database, which is well designed and easy to use, with good search and sort options. Unfortunately, due to limited resources the Office will probably not be able to post complete data prior to the election (as of June 1, Elections Office staff had still not entered the January 5 ballot committee filings into the database). Although the Elections Office has recommended mandatory electronic filing, the legislature has yet to respond.

Challenges:

- Without mandatory electronic filing, prompt disclosure is unlikely.
- There is no permanent feature or search option for linking ballot committees to their respective issue.
- Voters can only search by committee
- The link to the database ("Utah Reporting System") does not look like a link.
- Historical and summary data is limited to committee totals.
- Utah requires out of state committees to file according to their home state's reporting requirements.
- There is a large gap in the filing schedule, from January 5 to September 15.

WASHINGTON



Two years ago, Washington's Public Disclosure Commission finally succeeded in convincing the legislature to appropriate enough funds for an electronic disclosure system and database. Today, Washington has a model disclosure program and the Commission is working to make it even better. There is a new mandatory electronic filing requirement for groups raising more than \$25,000; the threshold will be lowered to \$10,000 in 2004. Voters can select a ballot initiative from a scroll down bar to view committees organized for and/or against that initiative. Voters can also search and/or sort by state, city, zip code, name, employer, occupation, amount, date, and year; the raw data can be downloaded. The filing requirements are rigorous; particularly noteworthy is the restriction on contributions of more than \$5000 within 21 days of the election. Washington may have the single best overall disclosure program of any state in the country.

Challenges:

- There is a limited amount of historical and summary data.
- The Secretary of State does not provide a clear link to the PDC site.

WYOMING



The Wyoming Elections Division does not post ballot initiative donor data online. Offline data is complete, organized by issue and available the day after filing, but the filing requirements in Wyoming are the worst in the country. Voters cannot view any ballot measure finance information until well after an election because there are no reporting deadlines from early Spring (the Spring deadline varies according to the legislative calendar) until the end of December. Late filers receive a \$25 fine and there are no restrictions on anonymous contributions. Although the Elections Division may post scanned files by 2004, the current filing requirements undermine any notion of meaningful disclosure, in any form.



THE SOLUTION: Model Disclosure Guidelines

It should be just as easy for the average voter to identify the leading contributors to a statewide ballot measure as it is to find a weather forecast online. Sadly, few state governments dedicate significant resources toward improving online initiative donor disclosure. Yet, improving initiative donor disclosure is an affordable investment in democracy. States can actually save money in the long run by implementing electronic filing — a critical component of timely, accurate disclosure — because costs associated with data entry, file maintenance, paper storage, auditing, and staff time will be greatly reduced. Furthermore, disclosing money in ballot campaigns will soon become even more critical as former federal “soft-money” donors, restricted in their ability to contribute to the political party apparatus by the recently enacted Bipartisan Campaign Reform Act of 2002 (BCRA), seek new paths to influence public policy. Ballot initiatives, already an emerging battleground for some of the most significant public policy battles of this era, may become an even more popular and powerful electoral tool. Tracking and disclosing the money behind the measures is more important than ever before.

BISC Foundation’s model disclosure guidelines can assist disclosure agency staff, reformers, and forward thinking legislators as they work together to improve donor disclosure practices in the 24 ballot measure states. While some recommendations require statutory changes and additional funding for disclosure agencies, many involve relatively minor changes in the way donor data is presented or organized. The model guidelines are based on existing disclosure requirements and practices and distilled from conversations with state based reform organizations, campaign finance researchers, and disclosure agency staff. Guidelines are separated into two sections: data gathering and data disclosure.

DONOR DATA GATHERING GUIDELINES

What guidelines should states use for gathering donor data?

The old computer programming adage "garbage in, garbage out" largely informed BISC Foundation's evaluation of initiative donor data input requirements. In order for disclosure agencies to effectively educate voters about money in ballot measure campaigns, ballot committees must submit complete, clear, and meaningful donor data periodically throughout the year and with increasing frequency as Election Day approaches. Campaign disclosure data is after all, public information and should be made available to voters. With this in mind, BISC Foundation supports the following recommendations:

IMPROVE FORMAT

- **All ballot measure states should require electronic filing for all statewide ballot committees.** Some initiative states have an electronic filing threshold (e.g. committees raising less than \$10,000 do not have to file electronically), which can help direct disclosure agency resources to viable ballot committees.
- **Filing schedules should require frequent and consistent reporting.** Filing deadlines need not be identical across state lines (though that would be ideal from a research perspective) but should adhere to the following rough schedule:
 - At least every other month through the spring and summer
 - Two or more deadlines in both September and October
 - One post election or year end report
 - States that do *not* require prompt disclosure of large donations made late in the election cycle (see below) should add filing deadlines at 14 and seven days prior to the election

IMPROVE WHAT INFORMATION IS REQUIRED

- **States should require committees that receive large contributions immediately before the election to disclose them online shortly after they are received.** This policy sheds light on last minute, large contributions and donors trying to fly below the political radar screen. Committees that receive cumulative contributions or make expenditures over \$50K in the 14 days prior to the election should be disclosed online within 48 hours. Once a mandatory electronic filing system is firmly in place, states can more easily adopt this requirement.
- **States should require ballot committees to file disclosure reports during the critical signature-gathering phase of an initiative campaign.** The Oregon legislature recently added additional filing deadlines that effectively capture contributions made during that state's unusually lengthy signature gathering phase. Though signature gathering periods vary across state lines, states should require that committees file disclosure reports at least twice during the signature gathering phase, once half way through the process and once at the end.

- **Ballot committees should be required to clearly indicate which ballot measure they are organized to support or oppose.** Though an initiative is not assigned a ballot number (or letter) until after qualification, each initiative qualification drive should be assigned a "qualification number" which committees should designate on their pre-qualification financial reports. This way, every committee financing a qualification drive—whether ultimately successful or not—is identified with the measure it is supporting without imposing any undue burden on the committees and the states. Assigning a number, rather than a subject or brief description, is simpler and leaves little room for confusion. Ideally, the state would assign ballot proposals one number that would identify the measure during the signature-gathering phase (pre-qualification), the campaign phase (post-qualification) and would appear next to the initiative on the ballot. This would: facilitate campaign finance research, eliminate voter confusion and reduce the chance of clerical errors, and allow ballot committees to produce signs, literature, and other campaign material with their assigned initiative number earlier in the election cycle.

Massachusetts requires that a ballot committee's name reflects the economic interests of its major contributors and/or the initiative itself. In Arizona, ballot committees are required to disclose their top four major funding sources (out-of-state donors must be disclosed as such) on any committee literature or advertisement. Both states' requirements are desirable.

When committees support more than one ballot measure, they should be required to clearly indicate how their contributions are allocated between recipient initiative campaigns.

- **States should require that ballot committees report complete donor data including: donor name, address (at least city and state), occupation, employer, date contribution was made, and amount of contribution.** Committees should not be permitted to accept a contribution without first securing all relevant disclosure information from the donor. States should also require that committees ask donors to distinguish between individual and organizational contributions so the public knows whether personal or institutional support is being lent to a ballot campaign. "Best effort" laws are woefully abused by ballot measure committees and rarely enforced by elections agencies after the election, leaving major gaps in disclosure.

- **States should require that ballot committees report all kinds of contributions including: direct financial contributions, in-kind contributions, and loans.**

- **Since, by definition, ballot committees are unaware of third party expenditures made on behalf of their initiative, states should require entities that make such expenditures, including 501 (c) and "527" organizations, to register with the state and clearly indicate the initiative number they are supporting or opposing.**

STRENGTHEN COMMITTEE GUIDELINES

- **States should limit participation in ballot measure campaigns to ballot committees.** In South Dakota, ballot committees are the only type of committee that can participate directly in a ballot initiative. If another committee type becomes involved in a ballot initiative, it must register as a ballot committee. Restricting ballot initiative involvement to ballot committees reduces the research burden for voters and helps disclosure agencies more easily track and code contributions to ballot measures.

- **States should define committees by how much money is raised.** In this era of wealthy individuals spending for and against initiatives, defining a "committee" as two or more persons obscures true disclosure. It is not uncommon for a wealthy individual to finance an initiative's entire qualification drive and/or campaign, and under most state laws, this individual would be exempt from filing. California state law defines a committee which must register and disclose its finances as "any person or combination of persons who directly or indirectly does any of the following: (a) Receives contributions totaling \$1,000 or more in a calendar year; (b) Makes independent expenditures of \$1,000 or more in a calendar year; or (c) Makes contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or committees." [Gov't Code Section 82013] This definition captures for reporting purposes any entity playing a significant role in the financing of initiative campaigns, while avoiding to capture small contributions that could otherwise fall under the U.S. Supreme Court's McIntyre ruling.⁴

⁴ In a 1995 decision, the US Supreme Court ruled that an Ohio regulation prohibiting anonymous distribution of political literature violated the First Amendment. In the case, the defendant distributed a modest number of anonymous leaflets expressing her opposition to a proposed school tax levy.

- **Out-of-state political committees that make contributions to a ballot committee should be required to follow the reporting schedule and disclosure laws of the recipient committee's state.**

INCREASE EMPOWERMENT AND FUNDING OF DISCLOSURE AGENCIES

- **State disclosure agencies should be empowered to enforce reporting laws and levy fines.** In order to ensure timely disclosure and fairness, committees should follow a regular reporting schedule and disclosure agencies should have the staff and resources to enforce those requirements. The Federal Election Commission's Administrative Fine Program is a good model.
- **States must adequately fund disclosure agencies.** In order to provide high quality online donor disclosure to the public, state disclosure agencies must have the resources to hire qualified staff who can properly manage donor data, maintain disclosure websites, and pursue campaign finance violators.

DONOR DATA DISCLOSURE GUIDELINES

How should states make donor data available?

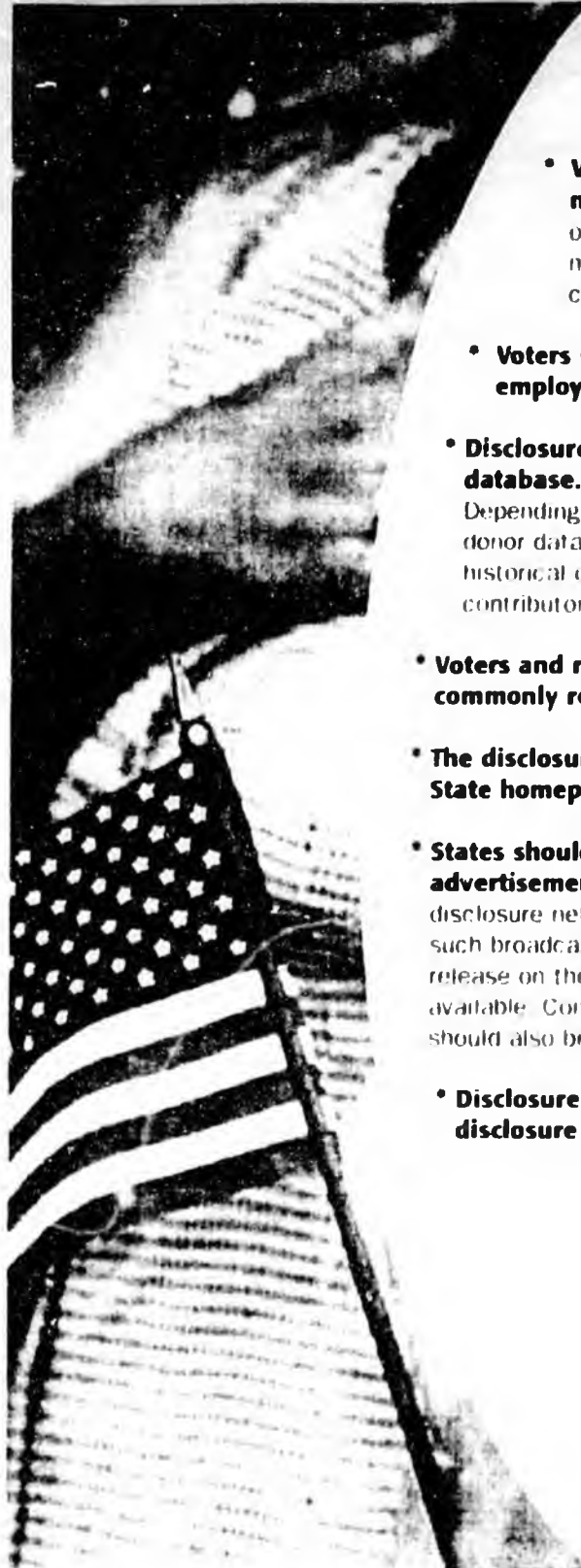
The following recommendations relate more directly to the disclosure agency's handling and distribution of initiative donor data. As such, some of these recommendations require less legislative intervention and a greater degree of disclosure staff resources and ingenuity.

MANDATE MORE TIMELY REPORTING

- **Ballot initiative donor data should be posted online within 48 hours of filing deadlines** (a goal met by all states that mandate electronic filing).
- **Clearly labeled summary data for all ballot committees should be readily accessible prior to the election.** Summary data provides voters and journalists with a snapshot of ballot measure funding information. Summary data should include totals by initiative and by committee displayed in lists, charts, or graphs. Helpful donor summary features include: recurring and major contributors, contribution and expenditure totals, average contributions and expenditures, contributors by economic interest and by donation amount.

IMPROVE QUALITY OF INFORMATION AND HOW IT IS DISPLAYED

- **The disclosure site should contain clear and intuitive internal links.** Voters should not have to search multiple databases to find complete donor data for one ballot measure. Disclosure sites should be as clear about what they do offer as what they do not. For example, if donor data for a particular ballot measure has not been posted because the sponsoring ballot committee failed to file a timely report that should be clearly noted. The site should contain clear and concise instructions to voters about what is required of ballot committees, when reports will be made available and what they will contain, and explicit instructions about how to use the agency's donor database.
- **Voters should be able to search for contribution information by initiative number or letter.** Linking ballot committees to specific initiatives allows voters to search for campaign finance information by initiative designation (e.g. Measure 2) rather than the often more obscure committee name (e.g. Voters for Accountability). The committee/initiative link should be a permanent feature in any donor database that should be updated frequently as initiative proposals are assigned numbers by the state, as new initiatives qualify for the ballot, and as committees form and dissolve.
- **In states that allow other committee types such as PACs to give to ballot committees, links to those committees' disclosure reports should be clearly provided.** Voters should not have to conduct multiple database searches to identify the top donors to a ballot campaign. If one of the top 10 donors to a ballot committee is the "America's Future PAC," the disclosure agency should provide a direct link to the contributor information in their disclosure database.
- **Disclosure agencies should physically separate ballot committees from other committee types on their websites.** Clearly separating ballot committees from other committee types (e.g. candidate, party, etc.) reduces voter confusion and facilitates initiative donor research. Furthermore, inactive committees or those that have raised less than \$2,000 should be separated from more active committees.

- 
- **Voters should be able to search by election year, the initiative's ballot number or letter, committee name, contributor name, amount (range), address (city and state), occupation, and employer.** The number of available search options depends, of course, on whether the state requires ballot committees to gather this much information. In states in which independent expenditures and late contributions play a role in ballot campaigns, voters should also be able to conduct searches to ply that data.
 - **Voters should be able to sort by contributor name, amount (range), address (city and state), occupation, employer, and date of contribution.**
 - **Disclosure agencies should make historical donor data for all ballot committees available in a searchable database.** Historical donor data facilitates longitudinal research and helps voters better understand ballot funding trends. Depending on whether donor data is electronically filed or submitted on paper forms to a disclosure agency, historical donor data from previous elections may be available in a searchable donor database or in a scanned format. Helpful historical donor data features include: total campaign spending by year and by initiative; list of recurring initiative contributors; and contributors by industry and by donation amount.
 - **Voters and researchers should be able to download complete raw data from the state's donor database in a commonly recognized format (e.g. quote, comma delimited).**
 - **The disclosure site should be easily accessible with unambiguous links from the Secretary of State's homepage or State homepage.**
 - **States should provide a "campaign advertisement website" for the storage and public access of campaign advertisements for and against ballot measures.** The Secretary of State should establish and maintain an on-line disclosure network of any television, radio, or other electronically distributed campaign advertisement. A digital copy of each such broadcast advertisement should be provided to the public on the disclosure agency's website within 24 hours of its release on the airwaves. A digital copy of any essentially similar printed campaign advertisement should also be made available. Committees or individuals that make third party or "independent expenditures" on behalf of any ballot measure should also be required to submit digital copies of any advertisements.
 - **Disclosure websites should allow voters to sign up to receive e-mail notices when new ballot committee disclosure reports are filed.**

APPENDIX A: Explanation Of Disclosure Criteria

BISC Foundation developed a ranking system to evaluate the many components of effective online initiative donor disclosure. States receive a numerical score of 0-3 for each criteria depending on their performance. Every effort was made to maintain objectivity and internal consistency. The overall score is based on points earned, divided by the maximum number of points that any state could earn (13 criteria x 3 points = 39), plus extra credit. No state recorded a perfect score. Evaluation criteria are grouped into four categories: filing requirements, data quality, voter access, and data format.

Some criteria are closely related to others; a weak score in one criterion may affect scores in related criteria. For example, filing method affects a range of criteria including the quality, timeliness, and accessibility of initiative donor data.

In states where different committees file reports electronically or via paper, full credit is not awarded on a given criteria unless all committees meet the standards of that criteria. For example, in order to earn full credit for "summary data," states must post comprehensive summary information for *all* committees, regardless of filing method.

Some states have implemented a monetary threshold under which donor data from minor committees is not posted online. Given the costs of campaigning in these states, BISC Foundation found these thresholds acceptable and states were not penalized.

Unless otherwise noted, state disclosure performance is based on current (2003) donor data.

RANKING CRITERIA

Filing Requirements

Must Ballot Committees File Reports Electronically?

- 3 = Mandatory electronic filing
- 2 = Voluntary electronic filing (or mandatory electronic filing with broad loopholes that exempt most groups from electronic filing)
- 1 = No electronic filing
- 0 = N/A

Must Ballot Committees File Regular Reports? (Filing deadline criteria are based on a November general election)

- 3 = At least one filing in spring, summer, September, two in October, one post election
- 2 = Missing a key report from above list
- 1 = Multiple reports missing
- 0 = No reports from 60 days prior to the election until 10 days prior to the election (usually September 1 to October 22)

Data Quality

Is Donor Data Posted Or Viewable For All Statewide Ballot Committees?

- 3 = All committee donor data posted
- 2 = Minor loopholes exist which may jeopardize complete disclosure
- 1 = Major loopholes exist which may jeopardize complete disclosure
- 0 = Disclosure agency does not post donor data, or cannot guarantee data will be posted

Is Donor Data Complete? Can voters find all relevant donor information in the state's main disclosure database or on images of scanned reports?

- 3 = State discloses name, contribution amount, address (city and state), employer, occupation, and the date the donation was made
- 2 = State discloses name, amount, and address
- 1 = State discloses name, and amount only
- 0 = State discloses no individual donor data, or cannot guarantee that data will be posted

Is Historical Data Made Available? Does historical data include lists of major donors, a list of agencies, or current and past ballot measure campaign finance trends, charts or graphs of summary trends from current and previous elections, as well as complete, searchable (not just committee totals)

- 3 = Historical data accessible database and written analysis, charts, or major donor lists
- 2 = Historical data in a searchable database, or any of the above features
- 1 = Historical data in scanned files, or consisting of summary data or committee totals only

0 = Incomplete historical data posted (nothing prior to 2000 elections)

Is Separate, Summary Data Available? Can voters view lists of the top donors, average contributions/expenditures, and total spending per initiative for past and current elections (in addition to committee totals)? Can voters retrieve all committee totals at once or must they search individual committee files? Are summary figures available prior to the Election Day?

- 3 = Summary data (including lists, written reports or charts) posted prior to the election, as it becomes available
- 2 = Summary figures posted after the election
- 1 = Complete committee totals searchable
- 0 = Incomplete summary data posted, or aggregate committee data only available within individual committee files

Voter Access: How Hard Is It For Voters To Get What They Want?

How Much Time Elapses Between Filing and Disclosure? How soon is data made available online?

- 3 = Data posted in 48 hours or less
- 2 = Data posted in less than 1 week
- 1 = Data posted in 1-4 weeks
- 0 = Disclosure agency cannot guarantee that data will be posted within one month

Can Voters Easily Access and Download Raw Data, Data That Can Be Sorted and Manipulated?

- 3 = Raw data can be downloaded in universal format
- 2 = Database cannot be downloaded
- 1 = Database does not contain all donor data (or scanned data not entered within 2 weeks)
- 0 = Scanned or summary data only, or disclosure agency cannot guarantee that data will be posted online within one month

Can Voters Easily Locate the Disclosure Agency Website and Download Historical?

Scores were determined using a typical Internet search engine, the location of the secretary of state and state homepage, the disclosure agency's location, the location, size, and clarity of every URL of the links.

- 3 = Disclosure website, database and relevant links can be located
- 2 = Disclosure website and/or database can be located through search
- 1 = Disclosure website and/or database can be located through search
- 0 = N/A

Website Format: How Is the Data Presented?

Are Ballot Committees Clearly Linked To Their Relevant Ballot Initiatives? Several state disclosure agencies expressed an intention to organize ballot committees by initiative once ballot measures begin to qualify. However, states do not receive full credit unless the ballot committee/ballot initiative link is a permanent feature in their donor database.

- 3 = Ballot committee/ballot initiative link is clear within the donor database
- 2 = Ballot committee/ballot initiative link exists on a separate page
- 1 = Expressed intention to link committees to initiatives once they qualify
- 0 = No intention to link committees to initiatives

Can Voters Search and Sort Donor Data By Multiple Criteria? Can voters search donor data by ballot initiative, contributor, committee, election year, address, and other useful criteria?

- 3 = Search by ballot initiative and additional search/sort criteria
- 2 = Search or sort by at least two significant criteria (contributor, committee, election year, address, etc.) but not by ballot initiative
- 1 = Search by committee or filing date
- 0 = Committee name required for effective search, too many groups for general search

Are Ballot Committees Legally Distinguishable and Physically Separated From Other Committees Types Such as PACs, Party or Candidate Committees? Are ballot committees the only committee type permitted to campaign for or against ballot measures? Are ballot committees listed separately to reduce voter confusion?

- 3 = Committee types clearly separated legally and physically on website
- 2 = Committee types partially separated on website
- 1 = No meaningful legal distinction between ballot committees, other committee types. Voters may have to search various committee types to locate ballot measure donor data
- 0 = Committee types not separated on website

Must Voters Search Extensively, Or Search More Than One Database To Obtain Donor Information?

- 3 = Excellent database, data well organized and comprehensive
- 2 = Database organization fair, some database features difficult to find
- 1 = Database difficult to locate/view, or incomplete (or scanned data not entered within 2 weeks)
- 0 = Scanned or summary data only

Extra Credit

Can Voters Search Donor Data By State?

- Yes = 3
- No = 0

Are Third-Party Contributions Made On Behalf Of Ballot Measures Reported and Posted Online?

- Yes = 3
- No = 0

Is Immediate Filing/Online Disclosure Required For Large Contributions Made Late In the Campaign Cycle? (For example, a contribution in excess of \$500 made within ten days of the election must be disclosed within 48 hours.)

- Yes = 3
- No = 0

APPENDIX B: Explanation Of Terms

Ballot Committee – State disclosure agencies have different names for the political entities that raise and spend money on ballot measure campaigns including ballot groups, ballot PACs, and political committees. To reduce confusion, the term “ballot committee” is used throughout this report to refer to the committee type that is primarily or exclusively organized for ballot initiative campaigns. Some states make no meaningful distinction between ballot and other committee types and, in these states, any committee may raise and spend money on behalf of a ballot measure.

Ballot Initiative/Ballot Measure – States have different names for ballot initiatives, the process by which citizens gather signatures to place proposals directly on a ballot for direct consideration by voters. Some states call them initiatives while others refer to them as propositions (California), Questions (Massachusetts), or Measures (Oregon). The terms “initiative” and “measure” have been used interchangeably throughout this report.

“Best Effort” Laws – Some states only require that committees make an effort to gather certain kinds of information about their contributors. In Massachusetts, for example, if a ballot committee receives a contribution over \$200, it must request the contributor’s employment information twice in writing. If the donor does not comply with requests for that information, the committee may keep the contribution.

Filing Deadlines – Ballot committees are generally required to submit registration and campaign finance reports to disclosure agencies on a predetermined filing schedule. The filing deadlines in this report refer to committees’ responsibilities to submit contribution and expenditure reports.

Query Data – Query refers to a voter’s ability to search for a piece or set of data within a database. Ideally, voters should be able to query data using a variety of search criteria.

Scanned Files – In states without electronic filing, campaign finance reports are generally scanned so that voters can view them on the Internet. While scanned files do allow researchers to view copies of original committee reports, they do not allow users to sort data since they are merely images of the submitted reports. “Adobe” brand “pdf” files of any variety share this limitation and are classified as scanned files.

Sort Data – Sorting refers to a voter's ability to organize retrieved data by various criteria and/or within certain parameters. For example, once a data set is retrieved, voters may want to organize donor data by contribution amount in descending order, for donations between \$500 and \$1,000.

State Disclosure Agency – State agencies that are charged with gathering and disclosing initiative (and candidate) donor data have different names (Public Disclosure Commission, Elections Division, Ethics Commission) and often operate under different government departments. Most fall within the purview of the secretary of state's office while others are more independent agencies. To reduce confusion, the term "state disclosure agency" is used to describe the state office that discloses donor data to the public.

Summary Data – Summary data provides voters and researchers with a profile of an initiative or committee's fiscal supporters. Good summary data would include: average contribution; breakdown of individual vs. organizational support; and major donors. Many states aggregate contribution totals from various committee reports. While these totals are helpful, they fall outside BISC Foundation's definition of summary data.

DISCLOSURE



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February 12, 2008

Representative Kyle Johansen

Alaska State Legislature

State Capitol, Room 13

Juneau, AK 99801-1182

Re: HB 355: Open and Transparent Initiative Act

Dear Representative Johansen:

On behalf of the Resource Development Council for Alaska, Inc., (RDC), I am writing in support of the concepts and spirit of House Bill 355, the Open and Transparent Initiative Act.

RDC is a private, non-profit business association comprised of individuals and leading companies from Alaska's oil and gas, mining, forest products, fisheries and tourism industries. The association's membership also includes construction companies, local communities, Native corporations, organized labor, and a wide range of industry-support firms. RDC's mission is to grow Alaska's economy through the responsible development of the state's natural resources.

Although we sometimes may question the appropriateness and the role of the petition process as a means of governing, RDC appreciates the democratic rights of Alaskans to change state law through the initiative process. However, as we have seen over the last several years, a number of proposed initiatives have been brought forward that do not have the best interest of the state nor its people in mind. Furthermore, tactics are often used in the signature gathering process that mislead the public and misconstrue the issues and impacts at play.

RDC believes that openness and transparency must be at the forefront of good government. This should apply when individuals are trying to gather signatures to put items on our ballots. Unfortunately, many of RDC's members have witnessed the contrary. Standards must be put in place to ensure a candid process and we applaud the bill's author and co-sponsors for introducing this bill. We look forward to working with you to advance this legislation.

Sincerely,

Jason Brune

Executive Director

Resource Development Council for Alaska, Inc.

121 West Fireweed, Suite 250, Anchorage, Alaska 99503-2035

Phone: 907-276-0700 Fax: 907-276-3887 Email: Resources@akrdc.org Website: www.akrdc.org

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 6, 2008

FURTHER REFERRALS: Finance

Date of Committee Action: 3/26/08

The JUDICIARY Committee considered:

HB 355

HOUSE BILL NO. 355

DISCLOSURE OF CONTRIBUTIONS: INITIATIVES

"An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to ballot initiatives and the aggregate amounts of significant contributions or expenditures made by those persons, groups, and nongroup entities."

Recommends it be replaced with HCS or CS for HB 355 (JUD)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWE
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Index	Zero
006			✓	
ADM				✓

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
006			✓	
ADM				✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Greenberg			-	
<i>[Signature]</i>	LYNN	X		✓	
<i>[Signature]</i>	Coyne			✓	
<i>[Signature]</i>	SAMUELS	X			
<i>[Signature]</i>	Holmes			X	
Chair: <i>[Signature]</i>	RAMRAS			X	
Chair:					

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version HB 355
 () Publish Date _____

Identifier (file name) HB355-DOA-APOC-2-11-08 Dept. Affected Administration
 Title "An Act relating to the disclosure of the identity of certain " RDU AK Public Offices Commission
 Component AK Public Offices Commission
 Sponsor Representative Johansen
 Requester House Judiciary Committee Component Number 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill requires groups that support or oppose a ballot initiative to register with APOC and to disclose their contribution and expenditure activities thereafter. This bill will not have a fiscal impact on APOC

Prepared by Brooke Miles
 Division Alaska Public Offices Commission
 Approved by Rachael Petro, Deputy Commissioner
Department of Administration

Phone 907-334-1726
 Date/Time 2/12/08 12:00 AM
 Date 2/12/2008

HB

359



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
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Rep. John Coghill
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Rep. Bob Lynn
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Rep. Ralph Samuels
Room 204
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Rep. Mike Doogan
Room 112
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: February 21, 2008

To: Representative Kevin Meyer
Co-Chair House Finance Committee

From: Representative Jay Ramras
Chair House Judiciary Committee

Re: Referral File for HB 359

Attached are the following documents, which represent the referral file for HB359:

- Sponsor Statement
- CSHB 359(JUD) 25-LS1377\K
- HJUD Amendments #1 and #2
- HB 359 (25-LS1377\C)
- Explanation of Changes
- 0 Fiscal Note - HJUD
- Relevant Statutes
- Support
- HJUD Report

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman

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Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Sponsor Statement HB 359

"An Act relating to probation and the offense of a minor consuming or in possession or control of alcohol."

Joining the military is one of the best ways for young Alaskans to gain self-confidence, and learn respect and discipline; skills that will serve them well throughout their adult lives. Unfortunately, making the mistake of underage drinking can prevent a person from enlisting in the armed services, due to probation restrictions.

Under current Alaska statute the court is required to place a person convicted of minor consuming on probation for one year from the date of conviction, or until the person is 21 years of age, whichever is later. There is no authority under the minor consuming statute for termination or modification of probation. This is contrary to authority granted to the court under Title 12. Under AS 12.55.090(b), "the court may revoke or modify any condition of probation, or may change the period of probation".

HB 359 would grant the courts similar authority to change the period of probation given under Title 12. By doing so, the courts would have the discretion to remove a person who has been convicted of minor consuming from probation, if the person has met the conditions of probation set forth by the court and the continuance of their probation would interfere with their rehabilitation or growth.

There are often good, young Alaskans who make mistakes. HB359 would offer those youth the opportunities to learn from their mistakes and work toward becoming stronger, more disciplined, law-abiding individuals through military service.

AMENDMENT #1

Passed

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 359(JUD), Draft Version "M"

1 Page 1, lines 12 - 13:

2 Delete "has either paid for the programs or has made a good faith effort to pay for the
3 programs"

4 Insert "has either

5 (A) paid for the programs; or

6 (B) made a good faith effort to pay for the programs, agreed to
7 have the debt reduced to a civil judgment, entered into a repayment plan with
8 the provider or the state, and agreed that the civil judgment may be enforced in
9 the manner provided for restitution and fines in AS 12.55.051"

10

11 Page 1, line 14, through page 2, line 1:

12 Delete "has paid the fine for the offense or has made a good faith effort to pay the
13 fine"

14 Insert "has either

15 (A) paid the fine; or

16 (B) made a good faith effort to pay the fine, agreed to have the
17 remaining fine amount reduced to a civil judgment, entered into a plan with the
18 state, and agreed that the civil judgment may be enforced in the manner
19 provided for restitution and fines in AS 12.55.051"

Pitssed

25-LS1377\M.2
Luckhaupt
2/20/08

AMENDMENT # 2

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 359(JUD), Draft Version "M"

1 Page 1, lines 1 - 2:

2 Delete "probation and the offense of minor consuming or in possession or control
3 of alcohol"

4 Insert "termination of probation for certain persons convicted of minor
5 consuming or in possession or control of alcohol or repeat minor consuming or in
6 possession or control of alcohol"

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

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Chairman
(907) 465-3004
Fax: (907) 465-2070
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Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Changes in Judiciary CS for HB 359 Version "M"

Section 1: AS 04.16.050

Page 1, lines 5 - 6: clarifies language on process for termination of probation.

Page 1, line 7: section (b) was added to include probation under (b) (1) which does not fall under probation requirements set forth in (c).

Page 1, line 8 - Page 2, line 4: provides requirements to be met before termination of probation may be granted by the court.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB359
 () Publish Date: _____

Identifier (file name): HB359 Dept. Affected: None
 Title: Probation & Minor Consuming RDU: _____
 Component: _____
 Sponsor: House Judiciary Committee
 Requester: House Judiciary Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jane Pierson, Committee Aide Phone: 907-465-4990
 Division: House Judiciary Committee Date/Time: 2/21/2008 at 8:50 AM
 Approved by: Representative Ramras Date: 2/21/2008
Chairman

Sec. 04.16.050. Possession, control, or consumption by persons under the age of 21.

(a) A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051 (b).

(b) A person who violates (a) of this section and who has not been previously convicted or received a suspended imposition of sentence under (1) of this subsection is guilty of minor consuming or in possession or control. Upon conviction in the district court, the court

(1) may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for one year or until the person is 21 years of age, whichever is later, if the person has not been convicted of a violation of this section previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

(2) shall impose a fine of at least \$200 but not more than \$600, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation under (c) of this section; the court may suspend a portion of the fine imposed under this paragraph that exceeds \$200 if the person is required to pay for education or treatment required under (e) of this section.

(c) A person is guilty of repeat minor consuming or in possession or control if the person was placed on probation under (b) of this section or has been previously convicted, and the person violates (a) of this section. Upon conviction in the district court, the court shall

(1) impose a fine of \$1,000 and require at least 48 hours of community work;

(2) revoke the person's driver's license for three months;

(3) take possession of the person's driver's license; and

(4) suspend up to \$500 of the fine and place the person on probation under (e) of this section.

(d) A person is guilty of habitual minor consuming or in possession or control if the person was placed on probation under (c) of this section, or has been previously convicted twice, and the person violates (a) of this section. Habitual minor consuming or in possession or control is a class B misdemeanor. Upon conviction, the court may impose an appropriate period of imprisonment and fine and place the person on probation under (e) of this section and shall

(1) impose at least 96 hours of community work;

(2) revoke the person's driver's license for six months;

(3) within five working days, notify the agency responsible for the administration of motor vehicle laws of the revocation; and

(4) take possession of the person's driver's license.

(e) The court shall place a person sentenced under (b), (c), or (d) of this section on probation for one year, or until the person is 21 years of age, whichever is later. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

(1) the person shall pay for and successfully complete any education or treatment recommended;

(2) the person may not consume inhalants or possess or consume controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);

(3) the person shall timely complete any community work ordered, as provided in (f) of this section; and

(4) other conditions the court considers appropriate.

(f) A person ordered to perform community work under this section shall perform the work within 120 days of the entry of judgment for a conviction. The court may expand the time period for up to 30 days upon a showing of good cause. The person shall submit verification of completion of community work to the clerk of court on a form provided by the court. If the verification is not provided within the time period required by this subsection, the court shall, within 30 days, schedule further proceedings in the case to determine whether a violation of probation has occurred.

(g) The treatment recommended by a juvenile alcohol safety action program for a person placed on probation under (e) of this section may include a period of inpatient treatment if the judgment specifies the maximum period of inpatient treatment authorized. A person who has been recommended for inpatient treatment may make a written request to the sentencing court for review of the referral. A person shall make a request for review within seven days after the recommendation and shall specifically set out the grounds upon which the request for review is based. The court may order a hearing on the request for review.

(h) The juvenile alcohol safety action program to which a person is referred under this section shall inform the court or a minor's juvenile probation officer if the person fails to submit to evaluation or fails to complete successfully any education or treatment recommended. If the court finds that the person has failed to perform community work as ordered, to submit to evaluation, or to complete successfully the education or treatment recommended, the court may impose the suspended fine, and may impose any period of suspended incarceration. If the person was convicted under (c) or (d) of this section, the court shall revoke the person's driver's license for an additional six months beyond the revocation imposed under (c) or (d) of this section. A court revoking a person's driver's license under this subsection shall notify the agency responsible for the administration of motor vehicle laws of the revocation within five working days.

(i) When considering the financial resources of a minor for purposes of determining eligibility for court-appointed counsel under this section, the court shall consider the resources of both the defendant and the defendant's parent or guardian, unless the court finds good cause to treat the defendant's or the defendant's parent's or guardian's resources as being unavailable to the defendant.

(j) A driver's license revocation under this section is consecutive to a revocation imposed under another provision of law, but is concurrent with a revocation under another provision of law based on a prior conviction, adjudication of delinquency, or informal adjustment under AS 47.12.060 .

(k) In this section,

(1) "driver's license" has the meaning given in AS 28.90.990 ;

(2) "juvenile alcohol safety action program" means

(A) a juvenile alcohol safety action program developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

(B) any other alcohol education or treatment program approved by the Department of Health and Social Services under AS 47.37 if a program described in (A) of this paragraph is not available in the community in which the person resides; or

(C) a program or counseling approved by the court if a program or treatment described in (A) of this paragraph is not available in the community where the person resides;

(3) "previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030 , 28.35.032, 28.35.280 - 28.35.290, or a law or ordinance in another jurisdiction with substantially similar elements.

Sec. 12.55.090. Granting of probation.

(a) Probation may be granted whether the crime is punishable by fine or imprisonment or both. If a crime is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

(b) The court may revoke or modify any condition of probation, or may change the period of probation.

(c) The period of probation, together with any extension, may not exceed

(1) 25 years for a felony sex offense; or

(2) 10 years for any other offense.



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
ALASKA ARMY NATIONAL GUARD ELEMENT, JOINT FORCES HEADQUARTERS
PO BOX 5800
FORT RICHARDSON AK 99505-0800

February 6, 2008

Office of the Commanding General

Rep. Jay Ramras
State Capitol, Room 118
Juneau, AK 99801-1182

Dear Rep. Ramras:

The Alaska Army National Guard is in support of allowing youth, who have made a mistake by drinking alcohol underage, to receive the leniency from the court system to join the Army, or any United States military service branch.

If a teenager receives a minor-consuming-alcohol conviction they are not eligible for enlistment in the armed services, due to their probation restriction until the age of 21. I would like to see the court system remove this probation term, if and only if, the teen presents a letter from a United States military recruiter stating that this is the only factor keeping the teen from joining the military.

We have good kids in Alaska who sometimes make mistakes. Joining the military gives young people a sense of confidence and discipline that will demand a respect for the law as adults.

Sincerely,

Thomas H. Katkus
Brigadier General, AKARNG
Commanding

HB

364

LEGAL SERVICES

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

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

State Capitol
Juneau, Alaska 99901-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 3, 2008

SUBJECT: CSHB 364(JUD); Work Order No. 25-LS1406\E

TO: Representative Jay Ramras
Chair of the House Judiciary Committee
Attn: Jane Pierson

FROM: Pam Finley *PF*
Revisor of Statutes

Enclosed is the CS you requested. Please note that we also added a reference to the physician's designee at page 4, line 13 of HB 364 (page 4, line 15 of the CS) because this seemed consistent with amendment # 9. Also, please take a look at AS 18.16.030(n)(5), added in bill sec. 8. I was listening to the hearing and was pretty sure that amendment #16 included the court's requiring the school to excuse the minor when the minor was having the abortion, if one was authorized by the court. If I am wrong about this, let me know and we will delete "and to have the abortion if one is authorized by the court".

Also, you may want to have the next committee look at two questions:

1. In AS 18.16.030(b)(4)(B), should "notice to or" be added before "the consent of"? This change was made in AS 18.16.030(a) and 18.16.030(b)(3) and (4)(A), but I don't know whether the omission of this language in AS 18.16.030(b)(4)(B) was intentional or not.

2. AS 18.16.030(n)(5), added in sec. 8, lists things the minor should be told that the court can order. But, there is no corresponding direction requiring or authorizing the court to consider ordering those things.

Please let me know if you have any questions about the above.

PF:ljw
08-132.ljw

Enclosure

ALASKA STATE HOUSE OF REPRESENTATIVES



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Session

(907)-465-3719
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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

HB 364 Parental Notification and Consent for a Pregnant Minor Aborting an Unborn Child

One-page sponsor statements are the preferred norm, but the issue of parental consent and the eleven-year struggle for protecting parental rights and the thirty-five-year struggle for protecting the right of life for an unborn child requires the complete picture for us to tackle this subject.

On November 2, 2007 in *State of Alaska v. Planned Parenthood of Alaska*, the Alaska Supreme Court, in a 3 – 2 decision, has once again undermined a long line of case law, the intent of the Constitution, and the will of the people of Alaska. HB 364 is a direct response to an active judiciary and an attempt to put this issue to rest once and for all.

The legislature passed the Parental Consent Act (PCA) in 1997. In July of that same year, Alaska Superior Court Judge Sen Tan ruled the law was unconstitutional because "the privacy clause of the Alaska Constitution protects minors as well as adults." The Superior Court did not address whether or not the PCA violated the privacy clause. The State appealed the decision and the Supreme Court ruled that the privacy clause extends to minors unless there is a compelling state interest using the least restrictive means available. The Supreme Court remanded the case back to Sen Tan to hold an evidentiary hearing to determine if PCA furthered a compelling state interest.

In January 2003 the Superior Court held a bench trial spanning almost three weeks to hear evidence regarding the constitutionality of the PCA. In October 2003, Judge Sen Tan ruled the PCA was unconstitutional because it did not further a compelling state interest while using the least restrictive means available. In January 2004 the Superior Court enjoined the State from enforcing the PCA declaring the PCA was unconstitutional under the equal protection and privacy clauses of the Alaska Constitution.

The primary purpose of the right to privacy is to protect Alaskans from "unwarranted intrusions by the State" (*Ravin*, P.2d 514). How can this be interpreted to mean a parent has no say in the approval of a medical procedure for a minor that would result in the termination of an unborn relative? State law already requires parental consent for tattoos, immunization, school use of student information, body piercing, school travel for extra-

curricular activities, marrying, entering the military, and all medical procedures except abortion.

In *Valley Hospital Association v. Mat-Su Coalition for Choice*, (948 P.2d 963 Alaska 1997) the court concluded that a "woman's control of her body, including the choice of whether or when to have children" is most personal and protected under the privacy clause. The decision was based on the "uniquely personal physical, psychological, and economic implications of the abortion decision." However, the *Valley* decision did not address pregnant minors.

In its November 2, 2007 decision, the court agreed with the State that "protecting minors from their own immaturity and aiding parents in fulfilling their parental responsibilities" are "compelling interests." So the issue at hand for the court was whether the PCA was the least restrictive means of achieving the State's compelling interests.

Although we are responding to a judicial body writing law with philosophical vents, HB 364 addresses the legal issues of parental consent in a practical manner based on the historical beliefs of our forefathers. The Parental Consent Act of 1997 was fully compliant with the U.S. Supreme Court precedent *Bellotti v. Baird*, (443 U.S. 622 1979). In essence, the Alaska Supreme Court in its November 2, 2007 decision struck down a decision of the U.S. Supreme Court. Justice Carpeneti eloquently wrote the dissenting decision stating the following:

"Because this court's rejection of the legislature's thoughtful balance is inconsistent with our own case law and unnecessarily dismissive of the legislature's role in expressing the will of the people, I respectfully dissent."

The dissent opinion brought to light the lack of consideration or recognition in case law that "children are not generally considered competent to consent to medical procedures." It brought to light the four exemptions in the PCA, "married minors, ... minors who have been legally emancipated, ...minors who have entered the armed services of the United States ,and ...who have become employed and self-subsisting." For those pregnant minors who did not fall into the four exempt categories a judicial bypass provision was provided for appropriate circumstances. It was a process designed to be speedy and cost-free to the child. The PCA called for a five-day response of the court; HB 364 calls for a three-day response. Failure by the court to respond in time would be construed as an act constructive authorization. The judicial bypass requires a sworn statement from the pregnant minor and an adult family member or state agent such as an Office of Children's Services caseworker or law enforcement officer.

Carpeneti discussed the fact that the Court quickly recognized that there was a compelling State interest but failed to "look closely at the nature of the state's and parents' interests" leaving "its constitutional 'balance' one-sided." Carpeneti continues in his dissent to outline case law that creates a judicial history of "treating minors differently from adults," "protecting twelve-year-olds from older teenagers and from their own immaturity in choosing to participate in harmful activity," prohibiting minors from making contract to "smoke cigarettes or drink alcoholic beverages or consent to sexual intercourse. Without a parent's consent they may not become licensed drivers or get married or obtain general medical or dental treatment."

"In sum, the Alaska Parental Consent Act appears to be the product of a concerted effort to make certain that those pregnant girls who are sufficiently mature to make the decision to obtain an abortion on their own are allowed to do so while those who are not sufficiently mature either obtain a parent's consent or, in the case of parental abuse, a judicial determination that the procedure is in their best interest."

In his dissenting opinion, Carpeneti uses the litmus test for parental consent that is required for participation in school field trips to demonstrating the extent to which the State must go to terminate parental rights is his argument:

"In addition to society's interest in protecting children from their own immaturity, we have long held that parents have a fundamental right in raising of their children."

Carpeneti's dissenting opinion determines that the State's compelling interest does outweigh the equal protection and privacy clauses because:

"In sum, the norm in American, and Alaskan, life and law is that the parents are a child's first and most important resource for assistance in decision-making. For that reason, the state's interest in protecting children from the consequences of their own immaturity, and in so doing protecting the health of its children, and its interest in supporting parents' right and duty to guide the upbringing of their children is particularly compelling."

HB 364 enacts the notification process that the Court determined is the least restrictive means of achieving the State's compelling interest but further continues to require parental consent unless the minor chooses a judicial bypass. It leaves intact the four exemptions from parental consent: *married minors, minors who have been legally emancipated, minors who have entered the armed services of the United States, and minors who have become employed and self-subsisting.*

I believe parental consent can still be a part of a three-legged stool that recognizes the State's compelling interest in *"protecting minors from their own immaturity and aiding parents in fulfilling their parental responsibilities."* In addition to **parental consent**, HB 364 provides for a judicial bypass for sexual abuse cases using a *lower standard than the 1997 PCA Act's clear and convincing* provision, and a **provision prohibiting the parents from coercing a pregnant minor to have an abortion.**

In an era where government intrusion continues to be an issue with infringement on freedom of speech, removing God from government and schools, Real ID, the Patriot Act, infringement on Second Amendment rights, and now abrogation of parental rights, it is time to reverse the trend and protect those principles our forefathers rooted in government to preserve our freedom.

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
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Fax: (907) 465-2070
Representative Jay Ramras@legis.state.ak.us



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Committee Members:
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Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Leg. Legal

Fax #: 2029

Number of pages including cover: 2

From: Jane Pierson

Date: March 1, 2008

Re: HJUD final for HB 364 (25-LS1406\C)

Please go final on the above-referenced bill with the following conceptual amendments:

Amendment #6 Adopted
P. 3, L. 29 After (a) insert (1)

Amendment #9 Adopted
P. 3, L. 29 P. 3, L. 29 insert physician designee may initiate calls and the physician shall give notice.
P. 4, L. 14 after physician insert "'s designee"

Amendment #11 Adopted
P. 4, L. 23 After "mail" insert ", restricted delivery to addressee only."

Amendment #12 Passed 6-1
P. 4, L. 29 After "products of conception" insert "and evidence"

Amendment #14 Adopted
P. 7, L. 14 Delete the comma after court.

L. 15 delete the comma after jurisdiction

Amendment #16

Adopted *no to say that*

P. 7, L. 16 insert "cause to prevent the minor from having an abortion"

is

Amendment #17 Adopted

P. 7, L. 21 Delete "parent, legal guardian, or custodian of a minor" and insert "person"

Amendment #20 Adopted

P. 10, L. 26-31 Delete Sec. 18. Also conforming amendments to Sec. 16 & 19

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Log for
Representative Jay Ramras
(907) 465-2070
Mar 01 2008 1:01PM

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 1	1:01PM	Fax Sent	2029	0:37	2	OK

HB364 HJUD Conceptual Amendments

Amendment #1 Withdrawn

P. 2, L. 6 After consents insert a period "." Delete the remainder of lines 6 and 7.

Amendment #2 Failed 2-5

P 2, L. 29. Delete "medical instability caused by a"

Amendment #3 Failed 2-5

P.2, L. 27 – 30 strike all after "necessary to avert" and insert "a serious risk to the minor's health."

Amendment #4 Failed 2-5

P. 3, L. 6 After abortion delete "not less than 48 hours before the abortion is performed"

Amendment #5 Failed 2-5

P. 3, L. 15-28 Inset "a minor who is a victim of physical abuse, sexual abuse, or emotional abuse is not required to give notice or obtain consent when such abuse is documented in a writing signed by the minor under penalty of perjury."

Amendment #6 Adopted

P. 3, L. 29 After (a) insert (1)

Amendment #7 Withdrawn

P. 3, L. 15 – 18 add in (4) "without notice or consent of parent, guardian, or custodian...and the minor consents."

Amendment #8 Withdrawn

P. 3, L. 31 After the first use of word abortion insert "or the physician's designee"

Amendment #9 Adopted

P. 3, L. 29 P. 3, L. 29 insert physician designee may initiate calls and the physician shall give notice.

P. 4, L. 14 after physician insert "'s designee"

Amendment #10 Withdrawn

P. 4, L. 13 Delete after "telephone" "but" and insert after "physician" shall make reasonable efforts to comply with this subsection. A physician that makes reasonable attempts to comply with this subsection shall not be held liable for failure to notify." Delete the rest of lines 13-16.

Amendment #11 Adopted

P. 4, L.23 After "mail" insert ", restricted delivery to addressee only."

Amendment #12 Passed 6-1

P. 4, L. 29 After "products of conception" insert "and evidence"

Amendment #13 Failed 2-5
P. 5, L. 20-21 Delete "a pattern of"

Amendment #14 Adopted
P. 7, L. 14 Delete the comma after court.
L. 15 delete the comma after jurisdiction

Amendment #15 Withdrawn
P. 7, L. 16 After section insert "obtaining"

Amendment #16 Adopted
P. 7, L. 16 insert "cause to prevent the minor from having an abortion"

Amendment #17 Adopted
P. 7, L. 21 Delete "parent, legal guardian, or custodian of a minor" and insert "person"

Amendment #18 Failed 1-6
P. 7, L. 21 delete "minor" and insert "person"

Amendment #19 Failed 2-5
P. 7, L. 22 Before the period insert "or to bear a child"
P. 7, L. 25 After "abortion" insert "or to bear a child"

Amendment #20 Adopted
P. 10, L. 26-31 Delete Sec. 18. Also conforming amendments to Sec. 16 & 19

Amendment #21 Failed 2-5
Page 9, L. 26 delete "clear and convincing" and insert "a preponderance of the"

AS 18.16.030(e) is amended by deleting "clear and convincing" and inserting "a preponderance of the"

AS 18.16.030(f) is amended by deleting "clear and convincing" and inserting "a preponderance of the"

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 36
 () Publish Date: _____
 Dept Affected: Health & Social Services
 RDU: Health Care Services
 Component: Medicaid Services

ID(File name) HB364-DHSS-MS-02-19-08
 Title: NOTICE & CONSENT FOR MINOR'S ABORTION
 Sponsor: COGHILL
 Requester: HOUSE JUD

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

	Appropriation		Information				
	Required						
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims
Miscellaneous							
TOTAL OPERATING	.	0.0	.	.	.	.	.
CAPITAL EXPENDITURES							
CHANGE IN REVENUES (0)							

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF
1037 GF/Mental Health							
Other(Specify Type-do not abbreviate)							
Other(Specify Type-do not abbreviate)							
TOTAL	.	0.0	.	.	.	.	.

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is indeterminate (*).

There is no way to determine which minors enrolled in Medicaid had consent from a parent or guardian for abortions because the department does not require a consent form to process claims. The department estimates that requiring parental consent could increase Medicaid costs due to higher risk factors associated with these pregnancies, including delayed prenatal care.

Continued on page 2.

Prepared by William J Streur, Deputy Commissioner
 Division Health Care Services
 Approved by Karleen Jackson, Commissioner
 Agency Department of Health and Social Services

Phone 334-2520
 Date/Time 02/11/2008
 Date 02/19/2008

FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

BILL NO: HB 364

ANALYSIS CONTINUATION

Expenditures for abortions are made from general fund dollars. These claims are paid pursuant to an Alaska Supreme Court decision that requires state funding of medically necessary abortions for low-income women eligible for Medicaid. The only abortion services eligible for federal financial participation are those that the department is required to cover under the federal Hyde amendment. To qualify under the Hyde amendment, the abortion must be the result of rape or incest, or the life of the mother must be endangered if the pregnancy were carried to term. Hyde amendment qualifying abortion claims are rare—in FY 2007, there were no Hyde amendment claims.

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

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Room 214**

REPRESENTATIVE JOHN COGHILL

HB 364 Penalties, Parental Notice, Parental Consent, and Judicial Bypass for an Abortion

SECTIONAL

*** Section 1.** Adds a notice requirement to the consent requirement in AS 18.16.010(a). Section 3 sets out specific requirements for notice and consent

***Sec. 2.** AS 18.16.010(g) is reenacted to shift the burden of proof for prosecution of a physician who performs an abortion to the State. With the new statutory language all it takes to determine the standard for whether or not an abortion is required because of a medical emergency is the doctor's good faith, clinical judgment. The doctor should make one of the following findings:

- (1) an immediate abortion of the minor's pregnancy is necessary to avert the minor's death; or
- (2) a delay in providing an abortion will create a serious risk of medical instability due to a substantial and irreversible impairment of a major bodily function of the pregnant minor.

***Sec. 3.** Requires the physician performing the abortion or the referring physician to give actual notice to one legal parent or the legal guardian or custodian of the possible abortion. Is notice must be in person or by telephone. If in person the parent or guardian must provide a government issued I.D. and provide documentation of their legal relationship with the minor requesting an abortion. If the notice is by telephone, the call must be initiated by the physician and the physician must take reasonable steps to verify the true identity of the person receiving notice and his or her relationship to the minor.

If the physician has exhausted efforts for notice in person or by phone, the physician can send written notice to the parent or guardian at the last known legal mailing address. This bill adjusts the waiting period to 48 hours after actual notice or 48 hours after the letter is deemed received. A letter is deemed received 48 hours after it is mailed, so that would be 96 hours. If the doctor actually talks to a parent, the waiting period would only be 48 hours.

One of the minor's parents or the minor's legal guardian or custodian has consented in a notarized writing to the performance or inducement of the abortion

Notice and consent is not required if the minor and a brother or sister of the minor who is over the age of 21, or a law enforcement officer, or a representative of state Child Protective services, or a grandparent, or a stepparent specified by the minor signs a notarized written statement certifying their personal knowledge of the abuse against the minor by a parent or guardian or sexual abuse by another person.

The other exceptions to notice and consent would be if a court issues an order under AS 18.16.030 authorizing the minor to proceed with the abortion without notice to the parent, guardian, or custodian or if a court, by its inaction under AS 18.16.030, constructively has authorized the minor to proceed with the abortion without notice to the parent, guardian, or custodian.

If the physician proceeds with the abortion proceeds after receiving notarized declarations of abuse, the physician performing or inducing the abortion must certify in the patient's medical record that he or she has received the written declarations of abuse or neglect abuse to and must report the abuse to OCS. Any physician who relies in good faith on written statements declaring abuse and who reports the abuse to Child Protection authorities shall not be civilly or criminally liable for failure to give notice to or to obtain consent from a parent, guardian or custodian. If the minor's pregnancy was the result of a sexual assault on the minor, the physician performing or inducing the abortion must retain, and take reasonable steps to preserve, the products of conception following the abortion for use by law enforcement authorities in any subsequent criminal prosecution of the assailant.

*** Sec. 4.** This amends AS 18.16.030, **Judicial bypass for minor seeking an abortion.** (a) A woman who is pregnant, unmarried, under 17 years of age, and unemancipated who wishes to have an abortion without notice to and without the consent of a parent, guardian, or custodian may file a complaint in the superior court requesting the issuance of an order authorizing the minor to proceed with the abortion without notice to the parent, guardian or custodian and/or to consent to the performance or inducement of an abortion without the consent of a parent, guardian, or custodian.

In the interest of shortening any delays in the process of obtaining the judicial bypass, subsection (c) reduces from five to three days the time in which Superior Court must render a decision on a judicial bypass. If the court does not issue a decision in three days the inaction will be considered a constructive order.

*** Sec. 5.** Adds notice to process for filing for judicial bypass without notice to and the consent of a parent, guardian, or custodian.

***Sec. 6.** Requires the court to hold a hearing not later than the third business day after a judicial bypass complaint has been filed. This reduces the deadline from five to three days for expediency purposes.

Sec. 7. Amends provisions for an appeal to a dismissed complaint for judicial bypass by adding notice language and reducing the timeline from four to three days the superior court has to deliver a copy of the appeal to the supreme court.

Sec. 8. Provides for a minor requesting a judicial bypass can request the superior court issue an order directing the minor's school allow the minor to attend a judicial bypass hearing and prohibits the school from notifying the parents, guardian, or custodian

***Sec. 9.** This is a new section of the law prohibiting a parent, guardian, custodian, or any other person from coercing a pregnant minor to have an abortion performed. If a minor is denied financial support by the minor's parents, guardian, or custodian due to the minor's refusal to have an abortion performed, the minor shall be deemed emancipated for the purposes of eligibility for public assistance benefits, except that such benefits may not be used to obtain an abortion. As used in this Section, "coercion" means restraining or dominating the choice of a minor female by force, threat of force, or deprivation of food or shelter.

Requires physicians to submit monthly reports to the Department Health and Social Service on forms prescribed by the department reporting the following:

1. the number of consents obtained under this law
2. the number of times in which exceptions were made to the consent requirement under this law
3. the type of exception, the minor's age
4. the number of prior pregnancies and prior abortions of the minor

No patient names are to be used on the forms. The Department is required to make a compilation of the data reported available to the public on an annual basis.

***Sec. 10.** Direct court rule change adding notice to consent provisions of Rule 220(a) Rules of Appellant Procedure, scope of judicial bypass appeals. It also contains language cleanup from revisor that replaces "parental consent" with consent of a parent, guardian, or custodian.

***Sec. 11.** Direct court rule change adding notice to consent provisions of Rule 220(c)(1) Rules of Appellant Procedure, notice of judicial bypass appeals. It also contains language cleanup from revisor that replaces "parental consent" with consent of a parent, guardian, or custodian.

***Sec. 12.** Direct court rule change amending Rule 220(a) Rules of Appellant Procedure, constructive order of judicial bypass appeals. It reduces from five to three days the deadline for the appellant to receive a constructive order because the court did not enter an order on an appeal.

***Sec. 13.** Direct court rule change adding "notice" to consent language in Rules of Probate Procedure Rule 20(a), Petition for Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion.

***Sec. 14.** Direct court rule change adding notice to consent provisions of Rule 20(e) Rules of Probate Procedure, Findings and Order of Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion. It also contains language cleanup from revisor that replaces "parental consent" with consent of a parent, guardian, or custodian.

***Sec. 15.** Direct court rule change adding notice to consent provisions of Rule 20(f) Rules of Probate Procedure, Findings and Order of Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion. It reduces from five to three days the deadline for the appellant to receive a constructive order because the court did not enter an order on an appeal.

***Sec. 16.** Indirect court rule amendment of Rules of Civil Procedure Rule 24(a) Right to Intervention by providing of a legislative right to intervention in Section 18.

***Sec. 17.** Severability clause.

***Sec. 18.** This new provision of law allows the Legislature, by joint resolution or by and through the Legislative Council, to appoint one or more of its members who sponsored or co-sponsored this Act, as a matter of right and in his or her official capacity, to intervene to defend this law in any case in which its constitutionality is challenged.

***Sec 19.** The enactment of Section 18, legislative right to intervention, is contingent on a two-thirds vote approval on indirect court rule amendment of Rules of Civil Procedure Rule 24(a) Right to Intervention.

***Sec. 20.** This Act takes effect within thirty (30) days of its enactment.



IMMEDIATE RELEASE

No. 07-216

Governor Palin Dismayed with State Supreme Court Decision

November 2, 2007, Juneau, Alaska - In a 3-2 vote this morning, the Alaska Supreme Court ruled Alaska's Parental Consent Act unconstitutional. The PCA, passed by the Alaska Legislature in 1997, requires girls 16 and younger to obtain parental consent before getting an abortion. The court decided the law burdens a minor girl's fundamental right to reproductive freedom.

"It is outrageous that a minor girl can get an abortion without parental consent," said Governor Palin. "The State Supreme Court has failed Alaska by separating parents from their children during such a critical decision, moving in the exact opposite direction from the law's intent."

Governor Palin has instructed Attorney General Talis Colberg to file a petition for rehearing. Twenty-six states have parental consent laws that are in effect. Sixteen states have parental notification statutes in effect.

"Our court is out of step with mainstream judicial decisions and our citizens," Governor Palin said. "This decision is clearly a case of legislating from the bench."

In 1997, the Alaska Legislature passed the law that required girls 16 years and younger to obtain parental consent before getting an abortion. Justice Walter Carpeneti, one of the two dissenting justices, recognized the will of the state in his dissent:

"In 1997, faced with competing interests of the highest constitutional level - an underage pregnant girl's constitutional right to privacy in deciding whether to terminate her pregnancy, her parents' constitutional right (and duty) to protect her best interests, and the state's compelling interests in protecting the children against their own immaturity - the Alaska Legislature carefully crafted the Alaska Parental Consent Act in an effort to recognize and protect all of these interests. That law is fully consistent with United States Court precedent, yet today's opinion strikes it down. Because this court's rejection of the legislature's thoughtful balance is inconsistent with our own case law and unnecessarily dismissive of the legislature's role in expressing the will of the people, I respectfully dissent."

###

Note: The Governor's comments regarding the State Supreme Court's decision will be on the Governor's satellite window at 3:30 p.m.



Home > 2007 News >

Web posted November 8, 2007

Lawmakers pushing for parental consent abortion referendum

About 15 percent of the Legislature says state's high court erred in ruling

STEVE QUINN

The Associated Press

Two Republicans are leading a push by state lawmakers to place a constitutional amendment on the ballot next year to determine whether underage teenage girls need parental consent to have an abortion.

Rep. John Coghill of North Pole and Sen. Fred Dyson of Eagle River are among 10 members - or about 15 percent - of the Alaska Legislature who say the state Supreme Court erred in ruling that girls 16 and younger can get abortions without permission from their parents.

"What this court decision did was put the parents out of the loop when it comes to the care, protection, nurturing and decision-making of the child," Coghill said Wednesday at a news conference. "The Legislature did everything it could to protect the privacy of a young child getting pregnant."

Clover Simon, head of Planned Parenthood of Alaska, said lawmakers should focus on more pressing priorities - ethics reform, oil taxes and future construction of a natural gas pipeline - and let the Supreme Court's ruling stand.

"The reality is almost every single teen we've seen come to Planned Parenthood for abortion services, are coming with a parent," Simon said. "The laws are not going to fix the problem of parent-child communication."

VoxBox

Voice Your Thoughts

Do you agree with the Alaska Supreme Court's decision to allow underage teens to get abortions without parental consent?

Friday's 3-2 decision by the Supreme Court ended a 10-year battle over the Parental Consent Act passed by the Legislature in 1997.

Post your comments at <http://juneaublogger.com/voxbox/>

The majority opinion written by Chief Justice Dana Fabe said the law "places a burden on minors' fundamental right to privacy."

But in the dissent, Justice Walter Carpenetti wrote, "society has long-standing and pervasive interests - protecting children from their own immaturity."

The final decision riled many legislators, including Coghill and Dyson, who want to put the question before voters as a proposed constitutional amendment. Lawmakers are now immersed in a special session over oil taxes, so no formal action can be taken until January when the Legislature returns for its regular session.

On Friday, Gov. Sarah Palin called the Supreme Court ruling "outrageous" and directed Attorney General Tais Colberg to file a petition for a rehearing.

Palin later said she supports putting the parental consent question on the ballot, said the governor's spokeswoman Sharon LeGrow.

At least two-thirds of the House's 43 members and Senate's 20 members each must approve a resolution to put the issue on the ballot.

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"Parents must be able to control the medical care their children get," Dyson said. "Aside from how you view the abortion issue, this denigration of parental rights is absolutely unacceptable."

The issue of parental consent or parental notification for a teen to receive an abortion is playing out nationwide.

According to NARAL Pro-Choice America, an abortion rights group, 43 states restrict young women's access to abortion with a parental notice or consent. But of those states, seven had laws ultimately ruled to be unconstitutional or unenforceable, including Alaska.

The results are wide-ranging.

Voters in California turned back the state's first abortion-related measure, 53 percent to 47 percent, in 2005. The proposal would have required doctors to alert parents before performing the procedure on minors.

In Idaho last spring, Gov. C.L. "Butch" Otter signed into law a bill requiring minor girls to get permission from a parent or guardian for an abortion. However, teens can bypass their parents and received a judge's approval in cases such as incest, abuse or a medical emergency.

In New Hampshire in 2006 Gov. John Lynch approved legislation to make the state the first to repeal a 2003 law requiring parents be notified before a minor receives an abortion. Like Alaska's Parental Consent Act, New Hampshire's repealed law never took affect.

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171 P.3d 577

171 P.3d 577

(Cite as: 171 P.3d 577)

Page 1

H

State v. Planned Parenthood of Alaska
Alaska, 2007.

Supreme Court of Alaska.
STATE of Alaska, Appellant/
Cross-Appellee,

v.

PLANNED PARENTHOOD OF
ALASKA and Jan Whitefield, M.D., Ap-
pellees/Cross-Appellants.
Nos. S-11365, S-11386.

Nov. 2, 2007.

Rehearing Denied Dec. 14, 2007.

Background: Abortion provider and two physicians brought action alleging that Parental Consent Act, which prohibited doctors from performing abortions on minors without parental consent or judicial authorization, violated state constitution. Plaintiffs filed motion for summary judgment. The Superior Court granted motion, concluding that Act violated equal protection clause. State appealed. The Supreme Court, Bryner, J., 35 P.3d 30, affirmed in part and reversed in part. On remand, the Superior Court, Third Judicial District, Anchorage, Sen K. Tan, J., entered judgment declaring that Act was unconstitutional under the equal protection and privacy clauses. State appealed.

Holdings: The Supreme Court, Fabe, J., held that:

(1) Act placed a burden on minors' fundamental right to privacy and, thus, was subject to strict scrutiny;

(2) State has compelling interests in protecting minors from their own immaturity;

(3) State has compelling interest in aiding parents to fulfill their parental responsibilities; and

(4) Act was not the least restrictive means of achieving State's compelling interests and, thus, violated minors' fundamental right to privacy under state constitution.

Decision of Superior Court affirmed.

Carpeneti, J., dissented and filed opinion in which Matthews, J., joined.

West Headnotes

[1] Appeal and Error 30 ⇌ 1008.1(5)

30 Appeal and Error
30XVI Review
30XVI(1) Questions of Fact, Verdicts, and Findings
30XVI(1)3 Findings of Court
30k1008 Conclusiveness in General
30k1008.1 In General
30k1008.1(5) k. Clearly Erroneous Findings, Most Cited Cases
Supreme Court reviews the superior court's factual determinations for clear error.

[2] Appeal and Error 30 ⇌ 893(1)

30 Appeal and Error
30XVI Review
30XVI(F) Trial De Novo
30k892 Trial De Novo
30k893 Cases Triable in Appellate Court
30k893(1) k. In General, Most Cited Cases
Supreme Court reviews constitutional