



TAKING THE INITIATIVE: BALLOT MEASURE MONEY, 2004

By
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OVERVIEW

Across the country in the 2003 and 2004 elections, voters decided a plethora of issues brought directly to the ballot, ranging from whether gambling should be allowed or expanded to whether limits should be placed on lawsuits or on the definition of marriage. In 32 states, legislatures either placed referenda on the ballot or citizens took the initiative to place their own measures before voters. The result: voters across the country had the opportunity to approve or reject more than 130 proposals to change state laws or constitutions through the ballot process.

The ballot questions often spurred heated advertising campaigns and generated millions of dollars for the committees trying to pass or defeat them.

In states where voters decided major ballot measures in the 2004 election cycles, ballot committees raised nearly \$599.7 million to advocate their points of view. The issues in California proved to be the most costly, drawing \$304 million alone. Florida followed, but its fund-raising pace paled in comparison. Ballot committees there raised \$57.8 million.

California's gambling measures alone generated \$104.3 million, more than the total raised for all ballot measures in any other single state.

And gambling proved to be the top-money issue across the country, with fully one-third of the money raised for ballot measures going to those that involved gambling-related questions. Ballot committees raised almost \$205.5 million for gambling measures in nine states.

Ninety-two percent of the money raised for the gambling measures came from sources with direct ties to gambling or a vested interest in the issue, primarily casinos, racetracks, Indian tribes and tribal casinos. A review of the campaign contributions reported by ballot measure committees formed in the 32 states also shows:

- Measures to place limits on lawsuits generated \$101.3 million in campaign contributions, largely from lawyers, physicians and hospitals. Those three groups of contributors gave more than half of the money raised for these measures, at slightly more than \$55 million.
- A California measure to require large- and medium-sized employers to provide specified levels of health-care coverage to their employees drew \$31 million in contributions. Proponents raised \$14.9 million, with about \$11.5 million coming from labor unions. Opponents raised \$16.1 million to successfully fend off the proposal. Restaurants, including such chains as Round Table Pizza, Burger King, McDonald's, Kentucky Fried Chicken and Outback Steakhouse, gave nearly \$9 million of the funds against the measures. Retailers — primarily Wal-Mart, Macy's, Robinson-May, Sears, Target, Best Buy and J.C. Penney — gave another \$3.4 million to fight the measure.
- A successful measure to allow stem cell research in California while banning reproductive cloning generated nearly \$26.3 million, almost all of it — \$25.6 million — from proponents. Supporters from 19 states and the District of Columbia gave money to the campaign, including nearly \$1.7 million from New York residents, \$1.1 million from New Jersey residents and \$1 million from Missouri residents. Opponents

raised almost \$665,000; forty-five percent, or nearly \$300,000, came from contributions affiliated with conservative Christian organizations, including Focus on the Family and the Family Research Council, while churches gave another \$76,400.

- Conservative religious groups and churches were more successful in backing measures in 13 states to constitutionally define marriage as the union of a man and a woman, effectively banning same-sex marriages. Christian groups gave \$2.2 million to support the measures, while churches gave \$1.9 million in support. Gay- and lesbian-rights contributors, meanwhile, gave \$3 million in their efforts against the amendments. The measures won approval in all 13 states.

Usually, the biggest portion of the money raised for state ballot measures came from contributors within the state. But out-of-state interests sometimes gave heavily.

For example, three states considered measures involving marijuana. Montana voters approved an initiative allowing the possession and use of marijuana by people with certain medical conditions. However, Oregon voters rejected an attempt to expand that state's medical marijuana law, while Alaskans voted down a proposal to legalize the possession and use of marijuana for anyone 21 years or older. In all three states, most of the money in favor of the measures came from the same group, the Marijuana Policy Project based in Washington, D.C. This group has been working since 1995 to reduce criminal penalties for the use of marijuana.¹

In Florida, half of the money raised for the campaign over a proposal to increase the minimum wage came from contributors outside of the state. They gave \$3.2 million of the \$6.3 million contributed to ballot committees. Many national labor unions supported the proposal, as did MoveOn.org, an organization that supports progressive candidates and policies. Out-of-state contributors opposing the measure included restaurants, grocery stores and retailers.

And nearly all of the money contributed to fight the extension of term limits for state legislators in two states came from out-of-state groups with ties to each other. They gave \$1.17 million of the \$1.2 million raised to oppose longer terms, or 97 percent of the funds.

Many of the ballot measures dealt with state-specific issues. But some cut across state lines, seeking to enact similar policies in more than one state. The marriage amendments were the most striking example during the 2004 election cycle, but other issues arose in more than one state, as well.

They included the efforts to expand gambling, place limits on lawsuits, hike tobacco taxes for health programs, extend term limits and even deal with hunting issues. Those proposals and the money behind them are examined in depth in this report. A separate Institute report, *The Money Behind the 2004 Marriage Amendments*, takes a look at the efforts to ban same-sex marriages.

¹ "About the Marijuana Policy Project," *Marijuana Policy Project* [on-line]; available from <http://www.mpp.org/about.html>; Internet; accessed Feb. 24, 2006.

METHODOLOGY

The Institute on Money in State Politics collected the campaign-finance reports that ballot measure committees involved in non-bond issue measures filed with the state disclosure agency in their respective states. The committees' contributions and expenditures were entered into a database for analysis. Institute staff use the employer and occupation information provided on disclosure reports to assign an occupation code to contributors. When that information is not provided, staff members conduct additional research to determine a contributor's economic interest, where possible. The occupation codes are based on the Standard Industrial Classification system used by the federal government.

GAMBLING

by Mark Dixon

In elections held in 2003 and 2004, voters in nine states saw 18 ballot measures involving gambling issues. Across the nine states, the committees supporting or opposing the various gambling initiatives raised more than \$205 million. Gambling and tribal interests were willing to spend huge sums as they sought to expand gambling opportunities or to protect their established gambling turf. Of these 18 questions, half passed and half failed.

Of the 18 measures, 16 sought to expand gambling in some way. The two measures that did not seek to expand gaming were Proposal 1 in Michigan, an anti-racino measure, and Amendment 4 in Nebraska, a lottery tax distribution question.

CONTRIBUTIONS BY STATE TO GAMBLING MEASURES, 2003 & 2004

STATE	BALLOT MEASURES	TOTAL
California	Propositions 68 & 70	\$104,311,897
Colorado	Amendment 33	\$10,646,427
Florida	Amendment 4	\$15,815,447
Maine	Questions 2 & 3	\$12,583,847
Michigan	Proposal 1	\$27,450,952
Missouri	Amendment 1	\$14,223,967
Nebraska	Amendments 3 & 4/Measures 417-420	\$7,958,562
Oklahoma	Questions 705,706 & 712	\$4,689,767
Washington	Initiative 892	\$7,779,176
	TOTAL	\$205,460,042

While the majority of gaming money that went to initiative committees came from casinos and tracks with addresses within in each state, many times, those operations were owned by international and national gambling companies seeking to expand the gaming market in the states where they operate.

Magna Entertainment Corp., an international gaming company based in Ontario, gave directly and indirectly to initiatives in California, Florida and Oklahoma that would have allowed slot machines at racetracks or made it easier to put those machines in place in the future. In California, Magna gave \$4.8 million in support of Proposition 68; the company owns two racetracks there. In Florida, Gulfstream Park Horse Racing, owned by Magna, gave \$1.5 million in favor of Amendment 4. In Oklahoma, Remington Park, a horseracing facility owned by Magna, gave \$250,000 in favor of Question 712.

Other gambling companies operating on a national or international level that gave were:

- Pinnacle Entertainment of Las Vegas, which contributed \$3.4 million in favor of Proposition 68 in California. Pinnacle owns two California card rooms that were seeking slots.

- Churchill Downs California gave \$2.4 million in favor of Proposition 68. It sought to gain slots at its Hollywood Park track in California. The company is owned by Churchill Downs, Inc., a national horseracing company that also operates the Kentucky Derby.
- In Colorado, \$6.5 million, or 96 percent of the money contributed in favor of Amendment 33, came from companies based in Colorado and owned by Wembley PLC, an international gambling company out of London. In 2004, Wembley operated four tracks in Colorado that would have gained video gambling had the amendment passed.
- The MGM Grand Detroit casino gave \$8.35 million in Michigan to support Proposal 1 and protect its gaming turf there. That proposal made it harder for Michigan racetracks to get electronic gaming machines. The MGM Grand Detroit is owned by MGM Mirage, an international gambling company based in Las Vegas.
- The Isle of Capri Casino of Biloxi, Miss., gave in both Colorado and Florida. It gave \$467,600 to a committee fighting a Colorado measure that would have added video lottery terminals at several racetracks in Colorado, where it operates casinos. And it gave \$3.4 million to a committee supporting a Florida proposal to give two counties the option of allowing slot machines at racetracks. Isle of Capri owns the Pompano Park track, located in one of the affected counties.
- Two national gaming companies based in Las Vegas gave money to committees in Nebraska. Venetian Resort Hotel Casino gave \$2.7 million to support Amendment 3, and the Coast Hotels and Casinos gave \$970,000 to support Initiatives 417 through 420. The measures asked voters to expand casino gaming in Nebraska in different ways.
- Great American Gaming, based in Washington state, gave \$236,294 in support of I-892. The company gave directly and through Washington casinos and companies in which it owns controlling interests. The measure would have expanded slot machines in the state to non-tribal gaming interests. Great American Gaming is a wholly owned subsidiary of Great Canadian Gaming Corp., a gambling company based in Vancouver, British Columbia.

Another notable example of direct Vegas-based giving happened in Maine's 2003 elections, when voters approved Question 2. The measure allowed Maine racetracks to operate slot machines. The \$2.15 million spent on promoting the question was funded entirely by two gambling companies out of Las Vegas, Capital One LLC and DDRA Capital Inc.

Maine voters rejected Question 3 in 2003. It would have allowed two Maine Indian tribes, the Passamaquoddy Tribe and the Penobscot Nation, to jointly operate a casino. Interestingly, the tribes put no money into the initiative, but their partner in the proposed venture, Marnell Corrao Associates, a Las Vegas casino developer, put \$6.8 million into the committee supporting this measure, outspending opponents by a wide margin.

A *Portland Press* article about the Marnell Corrao giving observed that the company “says it’s prepared to spend whatever it takes on Maine’s casino campaign,” because it needed to expand beyond the Las Vegas market into new areas and it was hoping to establish a continued financial interest in the casino once it was built.²

It is a good bet that future gambling expansion initiatives will see more of this partnered giving that pairs state or tribal interests with wealthy Vegas interests seeking to expand.

PATTERNS OF GIVING

Of the 18 gambling initiatives examined in this study, 16 sought to expand gambling in some way. Only two did not: Proposal 1 in Michigan, a measure that opposed slot machines at racetracks, and Amendment 4 in Nebraska, a measure that involved the distribution of lottery tax proceeds.

Gambling interests and Indian tribes gave large amounts to the gambling measures. The general theme across the nine states was that new gambling expansion within these states, most of which have some type of gaming now, would be at the expense of established gaming interests. Often, established gaming interests within each state gave large amounts to stop any gambling expansion that might cause them to lose business to a new or expanding competitor.

For the 16 measures seeking to expand gaming, 20 committees formed and raised money in support, a combined \$113.9 million. Seventeen ballot committees reported raising \$64 million in opposition. After the ballots were counted, only seven of the sixteen gambling expansion measures passed. In 2003 and 2004, voters across these states were more resistant to allowing gambling expansions, even in the face of expensive initiative campaigns run in favor of gambling expansion.

Out of the \$114 million given supporting these measures, 87 percent came from gambling interests. Of that, \$68 million came from non-tribal gambling interests, while \$30.6 million came from tribal gaming interests.

Of the \$64 million given opposing the gambling expansion measures, 82 percent — or \$52 million — came from gambling interests. Tribal gambling interests gave \$46 million. And \$6 million came from non-tribal gaming interests.

The remaining \$12 million given in opposition to these measures came from varied interests and individuals. Gov. Schwarzenegger’s California Recovery Team gave \$4.4 million to committees fighting Proposition 68 and Proposition 70 in California. Another \$1.2 million came from Missouri’s Herschend family, which runs a non-gambling entertainment complex in Branson and led the effort to beat expansion of riverboat gambling there. Other business interests gave \$1.5 million across the eight states; unions gave \$1.1 million; financial and real estate interests gave another \$1.1 million.

² Tux Turkel, “Marnell Corrao is an Industry High Roller,” *Portland Press*, March 16, 2003 [newspaper on-line]; available from <http://news.mainetoday.com/indepth/gambling/030316marnell.shtml>; Internet; accessed Feb. 3, 2006.

CALIFORNIA

Californians voted on two measures related to gambling on the 2004 ballot. A group of California racetracks and card clubs, which offer poker and blackjack games, qualified an initiative for the November ballot called the “Gambling Revenue Act of 2004,” or Proposition 68.³ It would have required tribal casinos to pay 25 percent of their revenues to the state and would have authorized additional non-tribal gaming if they refused. This prompted gaming tribes to qualify their own initiative for the ballot, the “Indian Gaming Fair-Share Revenue Act of 2004,” or Proposition 70. It would have required tribes to pay the state corporate income tax rate on gambling income and would have granted tribes unlimited gaming rights if they agreed to pay that rate. Proposition 68 failed, winning just 16.2 percent of the vote, after the measure’s supporters dropped their efforts in mid-October;⁴ Proposition 70 failed with 23.7 percent of the vote.

CONTRIBUTIONS TO THE CALIFORNIA GAMBLING MEASURES, 2004

COMMITTEE	POSITION	TOTAL
No on 68/Californians Against the Deceptive Gambling Proposition	Against	\$32,063,421
Yes on 70	For	\$30,096,595
Yes on 68/A Fair Share for California	For	\$26,944,308
First Californians for Self Reliance/No on 68	Against	\$9,260,492
No on 68 & 70/Gov. Schwarzenegger’s Committee for Fair Share Gaming Agreements	Against	\$4,591,227
UNITE HERE AFL-CIO/No on Propositions 68 & 70 Committee	Against	\$1,008,039
Californians for Indian Self-Reliance (Tribal Gaming)/No on Prop 68	Against	\$272,700
Stop Unlimited Casinos/No on 70	Against	\$75,115
	TOTAL	\$104,311,897

These competing initiatives each sought to expand gambling for the benefit of different gambling interests, while providing additional revenue to the state. Gov. Arnold Schwarzenegger, who negotiated new gaming compacts with nine tribes earlier in 2004, opposed both initiatives.⁵

No on 68/Californians Against the Deceptive Gambling Proposition raised the most money in its effort to defeat Proposition 68 — \$32 million, almost entirely from Indian gaming interests. Seventeen California tribes with gaming interests gave to this committee, led by three tribes: the Auburn Rancheria, Rumsey Band of Wintun Indians, and the Pala Band of Mission Indians. They each gave approximately \$6.7 million. The only major non-tribal contributor to this committee was the California Democratic Party, which gave just over \$7,000.

The Yes on 70 Committee raised the second-highest amount, at \$30.1 million. The bulk of that money came directly from Indian gaming interests, led by the Agua Caliente Band of Cahuilla

³ “Propositions 68 & 70: Tribal Gaming,” *Institute of Governmental Studies, Berkeley* [on-line]; available from <http://www.igs.berkeley.edu/library/htProps68&70TribalGaming.html>; Internet; accessed March 27, 2006.

⁴ “Gambling and Lottery Measures on the 2004 Ballot,” *National Conference of State Legislatures*, Nov. 17, 2004 [on-line]; available from <http://www.ncsl.org/programs/legman/statevote/gaming-mea.htm>; Internet; accessed Jan. 18, 2006.

⁵ Chet Barfield, “Fair Share’ Depends on Who’s Asked; Indian Casinos’ Payout to State Spurs Debate,” *San Diego Union-Tribune*, Oct. 10, 2004 [newspaper on-line]; available from <http://www.signonsandiego.com/news/politics/20041010-9999-1n10rich.html>; Internet; accessed Jan. 30, 2006.

Indians, which gave \$13.7 million. That tribe led the effort to get the initiative on the ballot.⁶ The San Manuel Band of Mission Indians gave another \$11 million. The Morongo Band of Mission Indians gave \$3.5 million. A committee called Taxpayers for a Fair Share/Yes on 70 gave \$1.3 million to the Yes on 70 committee. The Taxpayers for a Fair Share Group is a project of the Howard Jarvis Taxpayers Association. According to its mission statement, the association “is dedicated to the protection of Proposition 13 and the advancement of taxpayers’ rights including the right to limited taxation.”⁷

The Yes on 68/A Fair Share for California Committee raised more than \$26.9 million from non-tribal gaming interests in the state. Nine gambling companies gave more than \$1 million each to this committee. These big givers operate card rooms or racetracks that could have gained additional gambling revenue from slot machines if Proposition 68 had passed. The measure would have given 11 card rooms and five racetracks across the state the right to operate a total of 30,000 slot machines if the tribes refused to pay 25 percent of their revenues for state and local services.⁸ The proposition had the potential to break the tribes’ monopoly on casino-style gambling, by expanding slots to the card clubs and racetracks that previously had not been allowed to operate slots under California law.

Magna Entertainment Corp. gave \$4.8 million in contributions from an address in Arcadia in support of Proposition 68. Based out of Ontario, Canada, the company operates 14 racetracks across the country, a racino in Austria and simulcast wagering at these facilities. Magna Entertainment also operates off-track betting facilities and a nationwide account wagering business where customers can place bets over the phone and the Internet for races occurring at more than 100 North American racetracks as well as races in Australia, South Africa and Dubai.⁹ At the time the initiative was on the ballot, Magna owned three of the five California racetracks covered by Proposition 68 — Golden Gate Fields Racetrack in Albany, Bay Meadows Racetrack in San Mateo, and Santa Anita Racetrack in Arcadia.¹⁰

Pinnacle Entertainment, a national company located in Las Vegas, gave \$3.4 million to the Yes on 68/A Fair Share for California Committee. Pinnacle’s California interests include the Hollywood Park and Crystal Park card rooms, which both could have gained slots if the measure passed. Churchill Downs California, operators of the Hollywood Park racetrack in Inglewood,¹¹ gave \$2.6 million. Churchill Downs Inc., a national horseracing track operator that also owns the track where

⁶ James May, “Gaming Returns to the Forefront of California Politics,” *Indian Country Today*, May 11, 2004 [newspaper on-line]; available from <http://www.indiancountry.com/content.cfm?id=1084284916>; Internet; accessed Feb. 23, 2006.

⁷ “About HJTA,” *Howard Jarvis Taxpayers Association* [on-line]; available from <http://www.hjta.org/about.htm>; Internet; accessed Feb. 23, 2006.

⁸ Steve Wiegand, “Rival Casino Camps Are in the Chips,” *Sacramento Bee*, Sept. 20, 2004 [newspaper on-line]; available from <http://www.sacbee.com/content/politics/story/10811424p-11729419c.html>; Internet; accessed Feb. 28, 2006.

⁹ “MEC Overview,” *Magna Entertainment* [on-line]; available from <http://www.magnaent.com/AboutMEC/Overview/>; Internet; accessed Feb. 24, 2006.

¹⁰ Charles Burrell, “Environmentalists Fear Slot Machines; Prop. 68 Expands Gambling at 16 Venues, Including Golden Gate Fields in Albany,” *San Francisco Chronicle*, Aug. 12, 2004 [newspaper on-line]; available from <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2004/08/12/BAGJ086HKP1.DTL>; Internet; accessed Feb. 28, 2006.

¹¹ Steve Wiegand, “Rival Casino Camps Are in the Chips,” *Sacramento Bee*, Sept. 20, 2004 [newspaper on-line]; available from <http://www.sacbee.com/content/politics/story/10811424p-11729419c.html>; Internet; accessed Feb. 28, 2006.

the Kentucky Derby is run, owned the Hollywood Park track at the time Proposition 68 was on the ballot.

The following operators of racetracks and card clubs also gave money in support of Proposition 68: Bay Meadows Main Track Investors of San Mateo and the Los Alamitos Race Course, which each gave \$2.4 million; the Bicycle Casino of Bell Gardens, California Commerce Club of the City of Commerce, and the Hawaiian Gardens Casino, which each gave \$2.35 million, and the Normandie Club of Gardena, which contributed \$1.1 million.

TOP CONTRIBUTORS TO CALIFORNIA GAMBLING MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Agua Caliente Band of Cahuilla Indians	CA	Tribal Governments	Pro 70	\$13,690,000
San Manuel Band of Mission Indians	CA	Tribal Governments	Pro 70	\$11,000,000
Morongo Band of Mission Indians	CA	Tribal Governments	Con 68/Pro 70	\$8,850,400
Auburn Rancheria	CA	Tribal Governments	Con 68	\$8,235,047
Rumsey Band of Wintun Indians	CA	Tribal Governments	Con 68	\$6,694,241
Pala Band of Mission Indians	CA	Tribal Governments	Con 68	\$6,693,293
Pechanga Band of Luiseno Indians	CA	Tribal Governments	Con 68	\$5,521,142
Magna Entertainment Corp.	CA	Gambling & Casinos	Pro 68	\$4,800,008
Gov. Schwarzenegger's California Recovery Team	CA	Candidate Cmte	Con 68 & 70	\$4,371,202
Pinnacle Entertainment	NV	Gambling & Casinos	Pro 68	\$3,414,000
			TOTAL	\$73,269,333

Out of the \$104.3 million raised by committees on both sides of Propositions 68 and 70, the tribes contributed the largest amount, \$68.6 million or 66 percent. Gambling companies not affiliated with the tribes gave \$27.6 million, or 27 percent of the total funds. Another \$4.4 million, about 4 percent of the total raised, came from the committee formed by Gov. Schwarzenegger to defeat both propositions.

COLORADO

In 2003, Colorado voters faced an initiative that would have required the state to allow 500 video lottery terminals at each of five existing dog and horse racetracks along the Front Range and in casinos at Black Hawk, Central City and Cripple Creek. Amendment 33, sponsored by Republican state Sen. Jack Taylor of Steamboat Springs, would have generated an estimated \$25 million a year in tax revenue for the state, which could have spent the money on tourism, parks and open space.

However, the initiative failed, with only 20.8 percent of Colorado voters voting in favor. The campaign on the measure generated \$10.6 million in contributions to the one committee supporting the amendment and two committees opposing it.

Since 1990, the centrally located and sparsely populated mountain towns of Black Hawk, Central City and Cripple Creek have had the only casinos in Colorado. They opposed this amendment that would expand casino-style gambling by giving video lottery terminal machines to the tracks located in eastern Colorado, where the vast majority of the state population lives. The machines, called VLTs, are similar to slot machines, but they pay out in payslips that must be cashed, rather

than in coins. The five racetracks, scattered from Loveland on the northern end of Colorado's Front Range to Pueblo on the southern end,¹² supported the amendment as a way to revive their declining business. Proponents of Amendment 33 also argued that its passage would add significant gambling revenue to state coffers without raising taxes on citizens. A projected \$25 million a year in gambling tax revenues would be earmarked for the state to spend on promoting tourism in Colorado.

CONTRIBUTIONS TO THE COLORADO GAMBLING MEASURE, 2003

COMMITTEE	POSITION	TOTAL
Support Colorado's Economy and Environment	For	\$6,795,597
Don't Turn Racetracks into Casinos	Against	\$3,729,866
Colorado Gaming Association	Against	\$120,965
	TOTAL	\$10,646,428

The committee supporting Amendment 33, Support Colorado's Economy and Environment, outraised opponents by a ratio of about 2-to-1 in what was then the most expensive initiative campaign in state history.¹³ But at the polls, Amendment 33 still lost by a wide margin. Wembley PLC of London, which owns four of the five racetracks along the Front Range, contributed nearly all of the funds for the effort in favor of Amendment 33.¹⁴ Wembley gave \$551,411 directly from its U.S. division headquarters in Commerce City, Colo. Five other companies owned or controlled by Wembley USA¹⁵ each also gave the same amount, \$1,197,000, from the same address in Commerce City. Their names are listed in the table below. In total, Wembley together with its five associated companies contributed \$6.5 million in favor of Amendment 33.

But pro-gambling interests gave on both sides of the issue. Colorado's mountain casinos, not owned by Wembley, and the Colorado Gaming Association opposed the amendment. Together they funded the Don't Turn Racetracks into Casinos committee with \$3.7 million to defeat the amendment.

These same mountain casinos also gave more than \$120,000 to the Colorado Gaming Association committee that opposed the amendment.

TOP CONTRIBUTORS TO THE COLORADO GAMBLING MEASURE, 2003

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Interstate Racing Association	CO	Gambling	Pro	\$1,197,000
Mile High Kennel Club	CO	Gambling	Pro	\$1,197,000
Post Time	CO	Gambling	Pro	\$1,197,000
Pueblo Kennel Club	CO	Gambling	Pro	\$1,197,000
Racing Associates of Colorado	CO	Gambling	Pro	\$1,197,000
Wembley	CO	Gambling	Pro	\$551,411

¹² "A Stealth Plan for Slot Machines; Gambling Industry Attempts to Bypass Voters" *Rocky Mountain News*, April 21, 2004, sec. A, p. 36.

¹³ *Ibid.*

¹⁴ Andy Vuong, "Amend. 33 Backers Owe Creditors \$673,700," *Denver Post*, Dec. 5, 2004, sec. B, p. 3.

¹⁵ Burt Hubbard, "Wembley on Hot Seat; Amendment Opponents Say Racetrack Company Disguised Contributions," *Rocky Mountain News*, Sept. 19, 2003, sec. A, p. 5.

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Black Hawk Gaming & Development	CO	Gambling	Con	\$505,377
Isle of Capri Casino	CO	Gambling	Con	\$467,606
Riviera Black Hawk	CO	Gambling	Con	\$430,462
Colorado Central Station Casino	CO	Gambling	Con	\$334,568
TOTAL				\$8,014,424

Wembley PLC's operations in the U.S. had a hard year in 2003. In addition to its loss in Colorado, the company received a lot of bad press in Rhode Island, where criminal charges were filed against two company officials who allegedly conspired to pay \$4.5 million to the law firm of a politician in exchange for favorable treatment on legislation involving gambling.¹⁶

The Isle of Capri Casino located in Black Hawk, Colo. gave \$467,600 to the Don't Turn Racetracks into Casinos committee fighting the amendment. The Colorado Central Station Casino out of Black Hawk gave \$334,500 to fight Amendment 33. Both Colorado casinos are owned by Isle of Capri Casinos, Inc., a national gaming company that owns the Pompano Park racetrack in Florida, three casinos in Iowa, two casinos in Missouri, two casinos in Louisiana, four casinos in Mississippi and a golf and casino resort on Grand Bahama Island.¹⁷

The company also gave heavily in Florida in 2004 in an effort to get a local-option initiative passed to possibly allow slots at their Pompano Park racetrack there.

FLORIDA

Florida's Amendment 4 gave a local option to Broward and Miami-Dade counties to ask voters there to allow slot machines at existing racetracks and use the resulting tax revenue — estimated at \$200 million to \$500 million a year — to fund public education statewide.

The measure was sponsored by Floridians for a Level Playing Field and put on the 2004 ballot by citizen's initiative. The amendment passed with just 50.8 percent of the vote. Initial vote counts showed the amendment losing until Broward County found 78,000 uncounted absentee ballots that, when counted, showed a favorable outcome for Amendment 4.¹⁸

CONTRIBUTIONS TO THE FLORIDA GAMBLING MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Floridians for a Level Playing Field	For	\$15,512,224
No Casinos Inc.	Against	\$303,223
TOTAL		\$15,815,447

¹⁶ John Accola, "Wembley Poured \$7.4 Million Into Failed Initiative Video-Lottery; Defeat 'Not Surprising,' Firm Tells Shareholders," *Denver Rocky Mountain News*, Nov. 6, 2003. sec. B, p. 2.

¹⁷ *Isle of Capri Casinos, Inc.* [on-line]; available from <http://www.isleofcapricasinos.com/>; Internet; accessed March 1, 2006.

¹⁸ "Razor-Thin Vote in Florida Opens Door for Slot Machines," *Associated Baptist Press*, Nov. 10, 2004 [newspaper on-line]; available from <http://www.abpnews.com/106.article>; Internet; accessed April 4, 2006.

Proponents of Amendment 4 raised more than \$15.5 million through Floridians for a Level Playing Field, dwarfing the fund raising by the opposing committee. No Casinos Inc. raised just slightly more than \$300,000.

Racetracks threw their financial support behind the amendment, topping the list of contributors. The second-largest contributor to the pro-amendment committee was the Isle of Capri Casino of Biloxi, Miss., owners of the Pompano Park track in Florida. Interestingly, this same company gave just \$467,606 in 2003 to fight Amendment 33 in Colorado, the effort to legalize slot machines at racetracks there.¹⁹

The fourth-largest contributor to Amendment 4 was Gulfstream Park Horse Racing. That track gave \$1.5 million and is owned by Magna Entertainment, the international gaming company headquartered in Canada.²⁰ Magna also gave \$4.8 million in favor of Proposition 68 in California, which would have expanded non-tribal gaming for California racetracks and card rooms.

TOP CONTRIBUTORS TO THE FLORIDA GAMBLING MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Calder Race Track	FL	Gambling	Pro	\$4,465,627
Isle of Capri Casino	MS	Gambling	Pro	\$3,410,000
West Flagler Associates Ltd.	FL	Gambling	Pro	\$2,296,398
Gulfstream Park Horse Racing	FL	Gambling	Pro	\$1,500,000
Hartman & Tyner, Inc.	FL	Gambling	Pro	\$1,460,000
Hollywood Greyhound Track	FL	Gambling	Pro	\$820,000
Flagler Greyhound Track	FL	Gambling	Pro	\$585,000
Racing Corp. of West Virginia	WV	Gambling	Pro	\$375,000
Osceola County Board of Commissioners	FL	Local Government	Con	\$200,000
PPI, Inc.	FL	Gambling	Pro	\$159,814
TOTAL				\$15,271,839

The largest contributor to the No Casinos committee was the Osceola County Board of Commissioners, which gave \$200,000. The board voted on Oct. 11, 2004, to contribute that amount from its tourist development.²¹ The issue boiled down to people in central Florida and Osceola County not wanting a wholesale expansion of gambling in Florida. Many feared that could happen with passage of Amendment 4.

Indian tribes in Florida currently have Class II gaming in their casinos, which includes bingo, poker and electronic machines similar to slots. If the racetracks in Broward and Miami-Dade counties are allowed to have “racinos” with slot machines, as is now expected, the tribes could negotiate for similar types of gambling.²²

¹⁹ Joe Garner, “Playing Both Sides of Video-Lottery Issue Casino Firm Opposes Amendment 33, Seeks Machines in Florida,” *Rocky Mountain News*, Oct. 15, 2003, sec. A, p.16.

²⁰ “MEC Overview,” Magna Entertainment [on-line]; available from <http://www.magnaent.com/AboutMEC/Overview/>; Internet; accessed Feb. 24, 2006.

²¹ Christina Hoag, “Slots Could Spread to Indian Casinos,” *Miami Herald*, Nov. 6, 2004, sec. A, p.1.

²² Christina Hoag, “Slots Could Spread to Indian Casinos,” *Miami Herald*, Nov. 6, 2004, sec. A, p.1.

Other groups that gave significant amounts to the No Casinos committee were the Humane Society of the United States, which gave \$50,000 to fight the amendment, and the Walt Disney Co., which gave \$25,000. An organization called GREY2K USA that advocates for greyhound dogs gave \$19,000.

Since Amendment 4 passed, gambling expansion in Florida is becoming a reality. In 2005, voters in Broward County approved a referendum adding slots to their parimutuel facilities. Four Broward tracks plan to have slots operational by July 2006. Miami-Dade voters rejected a gambling expansion. The state constitution allows them to vote on the issue again in 2007.²³

MAINE

Maine voters faced two proposals to expand gambling in 2003. They narrowly approved a measure that allows slot machines at racetracks. Question 2 was put on the ballot by an initiative sponsored by Shawn Scott, a Las Vegas developer and 49 percent owner of the Bangor Raceway.²⁴ Maine has two racetracks affected by this initiative, Bangor Raceway and Scarborough Downs.

But voters rejected a proposal to allow operation of a tribal casino in southern Maine. Question 3, an initiative brought by Maine Indian tribes, would have allowed the Passamaquoddy Tribe and the Penobscot Nation to jointly operate an Indian casino in the town of Sanford in southern Maine.

Committees formed for one or both of the ballot measures raised just over \$12.5 million.

CONTRIBUTIONS TO THE MAINE GAMBLING MEASURES, 2003

COMMITTEE	POSITION	TOTAL
Think About It	For 3	\$7,051,886
Casinos No!	Against 2 & 3	\$3,284,776
Coalition for Maine Harness Racing and Agriculture	For 2	\$993,497
Maine Coalition for Racing and Slots	For 2	\$793,000
Best Bet for Maine	For 2	\$364,831
Christian Action League	Against 3	\$37,914
Building Trades PAC	For 3	\$23,000
Ironworkers Local 496 PAC	For 3	\$22,966
One Maine-No Casinos	Against 3	\$11,977
	TOTAL	\$12,583,847

Two Las Vegas companies provided all of the money raised by the three committees that supported Question 2 in 2003. Capitol One LLC, not to be confused with the Capital One credit card company, gave \$364,831 to the Best Bet for Maine committee, \$226,000 to the Coalition for Maine Harness Racing and Agriculture, and \$693,000 to the Maine Coalition for Racing and Slots.

²³ Mary Ellen Klas, "Gambling: Lawmakers Target Slots; House and Senate Leaders Proposed Bills to Prevent Miami-Dade From Voting a Second Time on Bringing Slot Machines to Race Tracks." *Miami Herald*, March 10, 2006, sec. B, p. 6.

²⁴ Grace Murphy, "Track Slot Machines Back for Vote," *Portland Press Herald*, Oct. 5, 2003 [newspaper on-line]; available from <http://news.mainetoday.com/indepth/gambling/031005racino.shtml>; Internet; accessed Feb. 2, 2006.

Capitol One LLC is an investor in the Bangor Raceway, and is run by Shawn Scott, the Las Vegas developer who gathered signatures to put Question 2 on the 2003 ballot.²⁵

DDRA Capital Inc., another Shawn Scott company, gave \$767,500 to the Coalition for Maine Harness Racing and Agriculture and \$100,000 to the Maine Coalition for Racing and Slots. The company shares a Las Vegas address with Capitol One LLC.

A committee called Think About It raised more than \$7.05 million in support of Question 3, largely funded by industry legend Marnell Corrao Associates of Las Vegas, which gave \$6.86 million to the committee. A well-known name in the gambling industry, Marnell Corrao Associates is a high profile-construction, architecture and design firm based in Las Vegas. The firm is responsible for much of the remaking of the Vegas strip in the 1990s.

Marnell Corrao Associates worked with the two tribes in Maine to design a proposed \$650 million resort casino and golf course it would have built on 400 acres in Sanford had Question 3 passed. In addition to the contract to build the tribes' casino, the company would have put up 10 percent to 40 percent of the equity needed for the casino's construction.²⁶

Marnell Corrao Associates has built 70,000 hotel rooms at casinos and resorts since 1976, for projects totaling \$7 billion. The company has done work at almost every major casino in Nevada and Atlantic City, but the proposed Maine project would have ranked among the company's biggest projects ever.²⁷

The only other contributor to the Think About It committee was Thomas Tureen, a lawyer from Portland, Maine, who gave \$188,577. Tureen was an adviser and consultant for the tribes on the proposed casino project.²⁸

The Casinos No! committee opposed both gambling measures, raising almost \$3.3 million in its effort to defeat them. The money came from individuals and several companies in the Northeast. Leon and Lisa Gorman of Maine and their company, L.L. Bean, gave \$631,500. Other corporate contributors were MBNA Corp, \$400,000; Burt's Bees, \$100,000; and Tom's of Maine, \$62,000.

TOP CONTRIBUTORS TO THE MAINE GAMBLING MEASURES, 2003

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Marnell Corrao Associates	NV	Gambling	Pro 3	\$6,863,309
Capital One LLC	NV	Gambling	Pro 2	\$1,283,831
DDRA Capital Inc.	NV	Gambling	Pro 2	\$867,497
Gorman, Leon & Lisa	ME	Manufacturing (LL Bean)	Con 3	\$515,497
MBNA Corp.	DE	Finance/Credit Companies	Con 3	\$400,000
Sussman, S. Donald	CT	Securities & Investment	Con 3	\$300,000

²⁵ Stan Bergstein, "So Goes Maine?" *Hoof Beats* [on-line]; available from <http://www.ustrotting.com/h hoofbeats/stan-a.htm>; Internet; accessed Feb. 2, 2006.

²⁶ Tux Turkel, "Marnell Corrao is an Industry High Roller," *Portland Press Herald*, March 16, 2003 [newspaper on-line]; available from <http://news.maine today.com/indepth/gambling/030316marnell.shtml>; Internet; accessed Feb. 3, 2006.

²⁷ *Ibid.*

²⁸ Grace Murphy, "Tribe Members Stunned by Casino Defeat," *Portland Press Herald*, Nov. 5, 2003 [newspaper on-line]; available from <http://news.maine today.com/indepth/gambling/031105tribeside.shtml>; Internet; accessed March 2, 2006.

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Tureen, Thomas	ME	Lawyer	Pro 3	\$188,577
Irving Isaacson	ME	Lawyer	Con 3	\$125,000
L.L. Bean	ME	Manufacturing	Con 3	\$116,029
Burt's Bees	NC	Manufacturing	Con 3	\$100,000
TOTAL				\$10,759,740

MICHIGAN

In 2004 Michigan voters approved a measure making it more difficult to expand gambling in the state.

Proposal 1 passed with 58.2 percent of the vote. This constitutional amendment requires voter approval of any form of gambling authorized by law after Jan. 1, 2004, or of any new state lottery games utilizing “table games” or “player operated mechanical or electronic devices” introduced after Jan. 1, 2004. Changes must be approved in both a statewide vote and by voters in the city or township where gambling will take place.

The initiative also specified that the voter approval requirement does not apply to Indian tribal gaming or gambling in up to three casinos located in Detroit. The passage of Proposal 1 will hamper the efforts of several racetracks in Michigan to get approval from the legislature for video lottery terminals at their racetracks, a step the tracks say they need to ensure the survival of their industry.²⁹

CONTRIBUTIONS TO THE MICHIGAN GAMBLING MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Let Voters Decide/Yes on 1	For	\$19,559,241
No Casino Monopoly/No on Proposal 1	Against	\$4,136,700
Committee to Protect Our Schools	Against	\$3,705,290
Citizens for Truth	For	\$49,721
TOTAL		\$27,50,952

Established tribal and Detroit-based gambling interests contributed to the effort to pass Proposal 1, and racetracks seeking to add slot machines gave money to fight its passage. The \$27.5 million spent on the fight over Proposal 1 made it the costliest campaign on the 2004 Michigan ballot.³⁰

Of the \$19.6 million raised in favor of the proposal, \$10.7 million, or 54 percent, came from the tribes. Other non-tribal gaming interests gave \$8.7 million in favor of the measure, about 44 percent of the total given. Opponents of the measure raised \$7.8 million, almost entirely from horseracing interests.

²⁹ “Work on Track, Despite Proposal Passage,” *Grand Rapids Press*, Nov. 5, 2004, sec. C, p. 3.

³⁰ Nate Reens, “DeVoses, Van Andels Give Half of State GOP Funds,” *Grand Rapids Press*, June 28, 2005, sec. A, p 1.

TOP CONTRIBUTORS TO THE MICHIGAN GAMBLING MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Saginaw Chippewa Indian Tribe of Michigan	MI	Tribal Government	Pro	\$9,450,929
MGM Grand Detroit LLC	MI	Gambling	Pro	\$8,359,223
Hazel Park Harness Raceway	MI	Gambling	Con	\$2,878,642
Northville Downs	MI	Gambling	Con	\$1,462,665
Little River Band of Ottawa Indians	MI	Tribal Government	Pro	\$1,185,933
Michigan Racing Inc.	MI	Gambling	Con	\$1,000,000
Northville Racing Corp.	MI	Gambling	Con	\$884,950
Jackson Trotting Association	MI	Gambling	Con	\$608,226
Saginaw Valley Downs	MI	Gambling	Con	\$606,015
Kewadin Greektown Casino LLC	MI	Gambling	Pro	\$310,498
			TOTAL	\$26,747,081

MGM Grand Detroit, which gave \$8.35 million to support Proposal 1, is owned by MGM Mirage, an international gaming company based in Las Vegas. Some of its well-known Vegas hotel/casinos are the Bellagio, Excalibur, Luxor, Mandalay Bay, The Mirage, and New York-New York. MGM Mirage owns and operates 24 properties in Michigan, Mississippi and Nevada, and has invested in four other properties in Illinois, Nevada, New Jersey, and the United Kingdom.³¹

MISSOURI

Missouri voters rejected a 2004 ballot measure that would have expanded the state's riverboat gambling by allowing floating casinos on the White River in Rockaway Beach. Amendment 1 was put on the August 2004 ballot through an initiative. The amendment was expected to generate annual direct gaming revenue ranging from \$39.9 million to \$49 million for the state and \$10.2 million to \$12.4 million for the local government, most of it earmarked for education.

Missouri allows riverboat gambling on the Mississippi and Missouri rivers. But the attempt to expand gambling to the White River was defeated soundly, even though backers of the amendment outspent opponents by more than \$10 million.

CONTRIBUTIONS TO THE MISSOURI GAMBLING MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Missourians for Economic Opportunity Inc.	For	\$12,435,086
Show Me You Care	Against	\$1,788,881
TOTAL		\$14,223,967

The pro-amendment effort was financed largely by the interests seeking to build a casino in Rockaway Beach. Robert Low gave 94 percent of the money raised by Missourians for Economic Opportunity, Inc., contributing \$11.6 million through his Springfield-based trucking company,

³¹ "Our Mission," *MGM Mirage* [on-line]; available from <http://www.mgmmirage.com/missionstatement.asp>; Internet; accessed March 3, 2006.

New Prime Inc.³² Another \$796,500 came from Southwest Casino and Hotel Corp., Low's partner in the proposed casino venture. The company had pledged to apply for a gambling license and build a \$100 million casino complex once the amendment passed.³³ In addition to his trucking company, Low owns the Palace Casino Resort in Biloxi, Miss.³⁴ In 2004, Southwest Casino & Hotel also owned three casinos in central Colorado and managed two tribal casinos in Oklahoma.³⁵

Peter Herschend led the fight against the amendment. Herschend is a co-owner of the Herschend Family Entertainment Corp., which operates the Silver Dollar City theme park and entertainment complex and other attractions in Branson,³⁶ 12 miles from Rockaway Beach. Herschend family members, afraid of losing business to the proposed casino and of losing the Branson family-friendly image, contributed \$271,444 to the Show Me You Care committee. They also gave \$1.2 million through the Herschend Family Entertainment Corp., about \$36,100 through Silver Dollar City and \$55,000 through Dixie Stampede, an affiliate of Silver Dollar City. Altogether, the Show Me You Care committee raised almost \$1.8 million from the Herschend family and a few smaller contributors in the successful fight against Amendment 1. Of the total raised by the committee, 89 percent came from the Herschend family and their business interests.

TOP CONTRIBUTORS TO THE MISSOURI GAMBLING MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
New Prime, Inc.	MO	Trucking	Pro	\$11,638,552
Herschend Family Entertainment Corp.	MO	Entertainment	Con	\$1,232,338
Southwest Casino & Hotel	MN	Gambling	Pro	\$796,534
Herschend, Peter F.	MO	Entertainment	Con	\$125,000
Herschend, Jack R.	MO	Entertainment	Con	\$75,000
Dixie Stampede	MO	Entertainment	Con	\$55,000
Herschend, Sharon J.	MO	Entertainment	Con	\$50,000
Silver Dollar City	MO	Entertainment	Con	\$36,077
Cook, Gerald & Kay	MO	Manufacturing	Con	\$25,000
Kanakuk Kamps	MO	Tourism	Con	\$25,000
Loren Cook Co.	MO	Manufacturing	Con	\$25,000
			TOTAL	\$14,083,501

³² Christopher Carey, "Race Is On to Get Out the Vote: Rockaway Beach Casino Issue Splits Tourist Region," *St. Louis Post-Dispatch*, Aug. 1, 2004, sec. A, p. 1.

³³ Associated Press, "Rockaway Residents Say They Were Dealt a Bad Hand," *St. Louis Post-Dispatch*, Aug. 9, 2004, sec. B, p. 4.

³⁴ Christopher Carey, "Race Is On to Get Out the Vote: Rockaway Beach Casino Issue Splits Tourist Region," *St. Louis Post-Dispatch*, Aug. 1, 2004, sec. A, p. 1.

³⁵ *Ibid.*

³⁶ Associated Press, "Rockaway Residents Say They Were Dealt a Bad Hand," *St. Louis Post-Dispatch*, Aug. 9, 2004, p. sec. B, p. 4.

NEBRASKA

In Nebraska, gambling supporters placed a package of initiatives on the 2004 ballot. The four initiatives were sponsored by the Keep the Money in Nebraska committee,³⁷ which was supported by the Coast Casino of Las Vegas, as well as Nebraska keno and horseracing interests.³⁸ The proposals were:

- Initiative 417, which was narrowly defeated. It would have amended the state constitution to allow citizens to enact laws via initiative to authorize gambling.
- Initiative 418, proposed to amend the state constitution to require a two-thirds vote of the Legislature to repeal or change any law enacted by initiative. It passed with the approval of 54.8 percent of voters.
- Initiative 419, which was narrowly approved. It created a tax on gambling, with 75 percent of the proceeds going to the state general fund and 25 percent going to the community in which the casino is located.
- Initiative 420, which failed. It would have allowed 4,900 slot and video gambling machines in Nebraska; two casinos in Omaha, as long as city voters approved; and 700 slot machines at racetracks. In addition, this measure would have permitted counties and cities to set some of their own regulations on where video gambling and slots could be located.

The Nebraska Legislature also placed two gambling questions on the 2004 ballot. Amendment 3, which failed, would have allowed just two casinos in the state and would have required the Legislature to decide how the casinos should be regulated and taxed. It received just 35 percent of the vote. Amendment 4, which passed, specified how the state's lottery proceeds must be used. It dedicated the first \$500,000 of lottery revenue after expenses to a fund for compulsive gamblers. The remainder goes to the state's environmental trust fund, education and the state fair.

CONTRIBUTIONS TO THE NEBRASKA GAMBLING MEASURES, 2004

COMMITTEE	POSITION	TOTAL
Keep the Money in Nebraska	For 417-420	\$4,642,000
Yes on Amendment 3	For 3	\$2,732,893
Gambling With the Good Life	Against 3 & Against 417-420	\$371,766
Vote for Amendment 4	For 4	\$139,216
Committee for Charitable and Public Interest Gaming	For 3	\$72,687
	TOTAL	\$7,958,562

Before the 2004 elections, Nebraska had gambling in the form of a state lottery, as well as horse racing and keno. Amendments 3 and 4, crafted in the Legislature, sought to create Omaha casinos

³⁷ Robynn Tysver, "Vote Goes Against Committees," *Omaha World-Herald*, Nov. 3, 2004, p. 1.

³⁸ "Focus on Gambling," *Ballotwatch, Initiative & Referendum Institute at USC*, September 2005, Issue No. 5.

in order to compete with potential tax revenue going out of state to casinos in Iowa.³⁹ Initiatives 417 through 420 sought to expand gambling for racetracks and create casinos but to do it without as much legislative control.⁴⁰

The Venetian Resort Hotel Casino, which gave \$2.7 million in support of Amendment 3, is a national, Las Vegas-based gaming company, as is Coast Hotels and Casinos, which gave \$970,000 in favor of the four initiatives.

TOP CONTRIBUTORS TO THE NEBRASKA GAMBLING MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Venetian Resort Hotel Casino	NV	Gambling	Pro 3	\$2,732,893
Coast Hotels & Casinos	NV	Gambling	Pro 417-420	\$970,000
Community Lottery Systems Inc.	NE	Gambling	Pro 417-420	\$920,000
Omaha Partners LLC	NE	Gambling	Pro 417-420	\$920,000
Omaha Exposition & Racing Inc.	NE	Gambling	Pro 417-420	\$650,000
Operational Services LLC	NE	Gambling	Pro 417-420	\$420,000
Nebraska Horsemen's Benevolent & Protective Association	NE	Gambling	Pro 417-420 & Pro 4	\$300,001
Advanced Gaming Technologies	NE	Gambling	Pro 417-420	\$100,000
MDL Services LLC	NE	Gambling	Pro 417-420	\$100,000
Nebraska Technical Services Inc	NE	Gambling	Pro 417-420	\$100,000
VVS, Inc.	NE	Food Sales	Pro 417-420	\$100,000
TOTAL				\$7,312,894

OKLAHOMA

Oklahomans voted on and passed three gambling-related questions in 2004 that were referred to the voters by the Legislature. Question 705 created a state lottery and directed the net proceeds to education. Question 706, a companion measure, created an Oklahoma Education Lottery Trust Fund to receive those proceeds. Question 712 expanded tribal gaming, allowing tribes to use new types of gaming machines and offer some card games. It also allowed three racetracks to offer electronic gaming if at least four tribes enter into the new compact.⁴¹

Democratic Gov. Brad Henry, elected in 2002, led the effort to craft the state lottery measures, Questions 705 and 706, and the expanded tribal gaming and racino measure, Question 712.⁴² The details and exact wording of these questions were debated and worked out in the state legislature where groups on all sides of these issues were involved before the questions were sent to the

³⁹ "Focus on Gambling," *Ballotwatch, Initiative & Referendum Institute at USC*, September 2005, Issue No. 5.

⁴⁰ "Gambling Issue Offers Variety of Choices for Voters," *Casino Magazine*, Oct. 29, 2004 [on-line]; available from <http://casinomagazine.com/managearticle.asp?c=280&a=12414>; Internet; accessed April. 4, 2006.

⁴¹ "State Questions on Election Ballot," Sept. 30, 2004 *NewsOK.com* [on-line]; available from <http://www.newsok.com/electok/article/1328571>; Internet; accessed Jan. 18, 2006.

⁴² Ray Carter, "OK County DA, Two Congressmen Side Against Election's Gambling Questions," *The Journal Record*, Oct. 26, 2004, p. 1.

voters. All three measures passed, with nearly 65 percent of the voters in favor of Question 705, 68 percent in favor of Question 706 and 60 percent in favor of Question 712.⁴³

CONTRIBUTIONS TO THE OKLAHOMA GAMBLING MEASURES, 2004

COMMITTEE	POSITION	TOTAL
Oklahomans for Education & Jobs, Inc.	For 712	\$3,079,846
Oklahoma Kids Coalition	For 705 & 706	\$1,077,480
Oklahomans for Good Government	Against 705,706 & 712	\$317,440
Committee for a Healthier Smarter Oklahoma	For 705 & 706	\$200,000
Citizens for a Better Oklahoma – Pro Lottery	For 705 & 706	\$15,000
TOTAL		\$4,689,766

One committee, Oklahomans for Education & Jobs, raised nearly \$3.1 million in support of Question 712. David Duvall, executive director for the Oklahoma Education Association, served as a co-chairman of the committee. Proponents argued the passage of Question 712 would channel more money to education.⁴⁴ Question 712, like Question 705, earmarked the state’s share of expected gambling proceeds for education.⁴⁵

Oklahoma tribes hoping to expand their casinos and horseracing interests seeking ‘racinos’ both wanted Question 712 to pass. The three largest contributors to Oklahomans for Education and Jobs were the Choctaw Nation of Oklahoma, which gave \$550,000, the Chickasaw Nation, which gave \$500,000 and the Cherokee Nation, which also gave \$500,000. Question 712 allows the tribes to expand the types of gambling offered at their casinos. The Choctaw and Chickasaw Nations also contributed to other committees supporting Questions 705 and 706. Multimedia Gaming of Austin, Texas, gave \$300,000 to Oklahomans for Education and Jobs. Multimedia Gaming manufactures video lottery machines for tribal casinos.⁴⁶ Remington Park racetrack, which gained casino-style gaming with the passage of Question 712, contributed \$250,000. Remington Park is owned by Magna Entertainment, an international gaming company.⁴⁷

The three committees supporting Questions 705 and 706 raised almost \$1.3 million. Many of the pro-lottery contributors also gave money to support Question 712.

Meanwhile, Oklahomans for Good Government raised about \$317,400 to oppose all three measures. Most of the money came from religious interests, with the Baptist General Convention of Oklahoma giving \$214,447. The committee also received \$35,000 from Dr. John H. Tatom, a

⁴³ Janice Francis-Smith, “One OK Lawmaker Says Horse Racing Doomed in State, But Industry Execs Don’t Agree,” *The Journal Record*, July 25, 2005, sec. News.

⁴⁴ Ray Carter, “Okla.-Tribal Gaming Act Touted as Both Savior and Downfall of State Government,” *The Journal Record*, Oct. 11, 2004, p. 1.

⁴⁵ “State Questions on Election Ballot,” Sept. 30, 2004 *NewsOK.com* [on-line]; available from <http://www.newsok.com/electok/article/1328571>; Internet; accessed Jan. 18, 2006.

⁴⁶ “Multimedia Gaming Stock Falls After Gaming Opinion,” *Austin Business Journal*, April 16, 2002 [on-line]; available from <http://austin.bizjournals.com/austin/stories/2002/04/15/daily20.html>; Internet; accessed March 6, 2006.

⁴⁷ “MEC Overview,” Magna Entertainment [on-line]; available from <http://www.magnaent.com/AboutMEC/Overview/>; Internet; accessed Feb. 28, 2006.

physician from Sulphur, Okla., and \$15,000 from One Nation United, a nonprofit committee based in Oklahoma City that is active on tax issues and concerned about tribal business monopolies.⁴⁸

TOP CONTRIBUTORS TO THE OKLAHOMA GAMBLING MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Choctaw Nation of Oklahoma	OK	Tribal Government	Pro 705, 706 & 712	\$800,000
Chickasaw Nation	OK	Tribal Government	Pro 705, 706 & 712	\$751,000
Cherokee Nation Enterprises	OK	Gambling	Pro 712	\$500,000
Multimedia Gaming	TX	Gambling	Pro 712	\$300,000
Cherokee Nation	OK	Tribal Government	Pro 705 & 706	\$250,000
Remington Park	OK	Gambling	Pro 712	\$250,000
Video Gaming Technologies	SC	Gambling	Pro 712	\$250,000
Baptist General Convention of Oklahoma	OK	Clergy	Con 705 & 706	\$214,447
Sodak Gaming	SD	Gambling	Pro 712	\$200,000
Thoroughbred Racing Association	OK	Gambling	Pro 712	\$125,000
			TOTAL	\$3,640,447

WASHINGTON

Initiative 892, defeated by voters in 2004 with only 38.5 percent of the votes in favor, would have provided a property tax cut and would have expanded slot machines for non-tribal gaming casinos. The state would have received 35 percent of the net revenue from the machines. Most of that money would have been used to reduce state property taxes, while 1 percent was earmarked to address problem gambling. The initiative was sponsored by conservative activist Tim Eyman, who has filed dozens of initiatives in Washington state over the last decade.⁴⁹

CONTRIBUTIONS TO THE WASHINGTON GAMBLING MEASURE, 2004

BALLOT COMMITTEE	PRO/CON	TOTAL
No on I-892	Con I-892	\$5,718,824
Just Treat Us the Same	Pro I-892	\$1,063,721
Campaign for Tribal Self Reliance	Con I-892	\$996,631
TOTAL		\$7,779,176

The campaigns opposing Initiative I-892, funded almost entirely by tribal interests, raised \$6.7 million. The Just Treat Us the Same committee supporting I-892 raised slightly more than \$1 million.

Washington Indian tribes with established gaming interests gave heavily to beat the initiative in an effort to protect their turf. Before the vote took place, Washington state had more than 15,000 slot-

⁴⁸ *One Nation United* [on-line]; available from <http://www.onenationok.com>; Internet; accessed March 23, 2006.

⁴⁹ Eric Pryne, "Legal Battle Over Ballot Title Turns Into a War of the Words," *Seattle Times*, March 10, 2006, sec. B, p. 3.

like machines, all in Native American casinos. If the measure had passed, the number of machines in the state could have more than doubled and expanded to non-tribal venues as well.⁵⁰

Of the nearly \$1.1 million given by contributors to the Just Treat Us the Same committee in favor of I-892, nearly \$236,300 came from companies associated with Great Canadian Gaming Corp. of Vancouver, British Columbia. The company currently operates several racetracks and casinos in Canada, as well as casinos in Washington state through its subsidiary, Great American Gaming.

Grand Central Casino of Tukwila gave \$75,100, and the Grand Central Casino of Lakewood gave \$41,184. In 2004, the casinos were operated by Evergreen Entertainment Corp., which was 50 percent owned by Great American Gaming Corp. of Richmond, Wash. Great American Gaming is a wholly owned subsidiary of Great Canadian Gaming.⁵¹

Evergreen Entertainment also gave \$25,000 to Just Treat Us the Same. The Great American Casino in Kent gave \$10,000 to the committee, and Great American Gaming also gave \$25,000. Pair O Dice Investments, LLC of Everett, Wash., gave \$60,010; that corporation is 90 percent owned by Great American Gaming.⁵²

Of the nearly \$1.1 million raised in favor of this measure, 90 percent came from non-tribal gaming interests that stood to gain new machines. The rest of the money came in small amounts from hotels, bars and restaurants that also stood to gain machines. By comparison, tribal governments seeking to protect their gaming monopoly gave \$6.1 million to fight the measure, and tribal casinos gave an additional \$606,100 to oppose I-892.

TOP CONTRIBUTORS TO THE WASHINGTON GAMBLING MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Puyallup Tribe of Indians	WA	Tribal Government	Con	\$1,744,355
Muckleshoot Indian Tribe	WA	Tribal Government	Con	\$1,493,933
Tulalip Tribes of Washington	WA	Tribal Government	Con	\$1,250,000
Campaign for Tribal Self Reliance	WA	Tribal Government	Con	\$760,000
Kalispel Tribe of Indians	WA	Tribal Government	Con	\$258,675
Swinomish Tribal Community Council	WA	Tribal Government	Con	\$250,000
Michels Development LLC	WA	Gambling	Pro	\$206,422
Lucky Eagle Casino	WA	Gambling	Con	\$150,000
Nisqually Red Wind Casino	WA	Gambling	Con	\$146,131
Suquamish Indian Tribe	WA	Tribal Government	Con	\$110,000
			TOTAL	\$6,369,516

⁵⁰ Lewis Kamb, "I-892 Would Make State a Slot Leader," *Seattle Post-Intelligencer*, Oct. 29, 2004 [newspaper on-line]; available from http://seattlepi.nwsourc.com/local/197340_slotsurvey29.html; Internet; accessed Feb. 8, 2006.

⁵¹ Neil Modie, "Canadian Firm Downplays Links to I-892 Backers," *Seattle Post-Intelligencer*, June 24, 2004 [newspaper on-line]; available from http://seattlepi.nwsourc.com/local/179270_gambling24.html; Internet; accessed March 2, 2006.

⁵² "Everett Casino Sold to Canadian Gaming Company," *Puget Sound Business Journal*, Sept. 26, 2002 [on-line]; available from <http://www.bizjournals.com/seattle/stories/2002/09/23/daily38.html>; Internet; accessed March 9, 2006.

TORT LAWS ON TRIAL

by Rachel Weiss

During the 2003-2004 election cycle, 32 committees in seven states raised \$101.3 million to support or oppose lawsuit liability ballot measures. In five states — Florida, Nevada, Oregon, Texas and Wyoming — the battles focused on medical malpractice laws. Committees in these states raised \$72.6 million to support or oppose the initiatives.

In Colorado, homebuilders and plaintiffs' attorneys squared off over an initiative to roll back legislative changes to restrict lawsuits against the construction industry. These committees raised more than \$4.9 million. California committees raised \$23.7 million for a fight over who should be able to sue a company under the state's unfair competition laws.

More than 40 businesses and individuals contributed \$9.8 million to committees in multiple states. Insurance companies contributed 50 percent of all money given across state lines. State Farm and the U.S. Chamber of Commerce were the leading contributors giving in more than one state.

STATE	BALLOT MEASURES	TOTAL
California	Proposition 64	\$23,701,933
Colorado	Amendment 34	\$4,940,657
Florida	Amendments 3, 7, 8	\$32,875,477
Nevada	Questions 3, 4, 5	\$10,903,689
Oregon	Measure 35	\$9,136,483
Texas	Proposition 12	\$18,038,762
Wyoming	Amendments C & D	\$1,721,208
TOTAL		\$101,318,209

MEDICAL MALPRACTICE BALLOT MEASURES

For the health-care community, changing tort laws at the state level was a nationwide strategy. In 2004, Dr. John Nelson — then president of the American Medical Association (AMA) — stated: “It seems to us that the thing to do is go straight to the people who want and need this reform. Federal legislation would be easier, but a state-by-state approach is just as effective.”⁵³ During the 2005 legislative session, 32 states passed laws relating to medical liability statutes.⁵⁴ Six states, including Texas, passed comprehensive tort reform measures in 2004 and 2005.⁵⁵

In all five states that voted on ballot measures involving lawsuit liability laws for medical cases, the measures pitted doctors and other healthcare providers against trial attorneys. In Nevada, where one measure combined insurance reform and lawsuit liability, insurance companies from across the nation contributed generously.

⁵³ “Malpractice Showdown Up to Voters of Four States,” *Associated Press*, Sept. 27, 2004.

⁵⁴ “Medical Malpractice Tort Reform,” *National Conference on State Legislatures* [on-line]; available from <http://www.ncsl.org/standcomm/sclaw/medmaloverview.htm>; Internet; accessed Feb. 21, 2006.

⁵⁵ Kris Axtman, “Jury’s Vioxx Award: Not So Texas-sized After All,” *The Christian Science Monitor* [on-line]; Aug. 25, 2005, available from <http://www.csmonitor.com/2005/0825/p03s01-uspo.html>; Internet; accessed Feb. 7, 2006.

Medical associations ranging from the national AMA to county-level groups gave \$3.34 million to committees supporting changes to medical malpractice laws in the 2004 election cycle. The Florida Medical Association led the pack, contributing more than \$2 million to ballot measures in Florida. The American Medical Association contributed \$500,000, giving \$100,000 in each of the five states with medical malpractice measures on the ballot.

For their part, plaintiffs’ lawyers claimed to be outgunned by the deep pockets of doctors, hospitals and insurance companies. A spokesman for the Association of Trial Lawyers of America contended that “the insurance industry, the drug industry, the hospital and nursing home industry have far more money than people injured by medical malpractice and their lawyers.”⁵⁶

However, lawyers contributed \$33.8 million to ballot committees in the five states, or 58 percent more than the \$21.4 million the health-care sector contributed. All but \$6,550 of the \$33.8 million went to committees opposing limits, supporting limit repeals, or supporting measures that would retaliate for liability limits. The health sector includes doctors, hospitals and drug companies. Even when contributions from the insurance industry — mostly to committees in Nevada — are factored in, lawyers still contributed 24 percent more money.

The \$33.8 million given by lawyers and lobbyists also does not include money from any lawyers in Nevada. A committee associated with the Nevada Trial Lawyers raised almost \$1.5 million, all from a nonprofit organization that did not disclose its donors. So the amount given by lawyers likely was higher than the figure in the study.

Lawyers in Florida put the most money into ballot-measure campaigns, giving \$22.3 million, or about two-thirds of all the contributions by lawyers. Attorneys in Texas gave \$9 million to oppose that state’s 2003 amendment limiting noneconomic damage awards in medical malpractice lawsuits.

TOP-CONTRIBUTING SECTORS TO MEDICAL LIABILITY MEASURES, 2004

SECTOR	TOTAL
Lawyers and Lobbyists	\$33,815,556
Health	\$21,466,571
Finance, Insurance and Real Estate	\$5,962,178
General Business	\$3,412,992
Ideology/Single Issue	\$1,662,401
TOTAL	\$66,319,698

The nonprofit committee in Nevada that appeared to be affiliated with the Nevada Trial Lawyers Association — People for a Better Nevada — gave almost \$1.5 million of the \$1.6 million given by single-issue or ideological organizations. The rest of the money came from three Texas groups and one Oregon group.

Although insurance companies — part of the finance, insurance and real estate sector — often are accused of financing efforts to place caps on damages, the insurance industry contributed slightly more than \$5.7 million, or just less than 8 percent of the total given in the five states with medical malpractice ballot measures. Committees in Nevada collected 94 percent, or \$5.4 million, of this

⁵⁶ “Malpractice Showdown Up to Voters of Four States,” *Associated Press*, Sept. 27, 2004.

money. Nevada had one ballot measure that would increase regulation of insurance companies, as well as overturn medical malpractice liability measures. Committees in Texas received the next-largest amount from the insurance industry, gathering just less than \$180,000.

The general business sector gave \$3.4 million to committees in four states: Florida, Nevada, Oregon and Texas. Texas committees collected 71 percent of the cash, or \$2.4 million. Florida committees received \$702,800. Two of the top contributors in this sector were Texans for Lawsuit Reform and the Texas Civil Justice League. Both lobby for lawsuit liability reform at all levels of Texas government. In 2004, Texans for Lawsuit Reform was the top giver to candidates in Texas, contributing more than \$1.7 million to candidates running for state offices.

GIVING ACROSS STATE LINES

The liability measures drew many of the same contributors, who spread their money across the five states as they supported the initiative strategies complimentary to their interests.

For example, \$6 million of the more than \$10.9 million raised by Nevada committees for lawsuit measures, or 56 percent, came from out-of-state companies and individuals. In Colorado, almost 35 percent — \$1.7 million — of the committees' money came from out-of-state sources. California companies raised almost 23 percent, or \$5.4 million, from out-of-state contributors. Wyoming committees received 10 percent of their total from out-of-state organizations. Florida, Oregon and Texas committees all raised 6 percent or less of their money from out of state.

Although most of the money given to ballot committees came from within each state, 43 organizations and three individuals contributed \$9.8 million to committees in multiple states. Twenty-two insurance companies or associations gave \$5.25 million, or 53 percent of the funds.

One of these insurance companies, State Farm, gave more than \$1 million to five committees in three states, making it the leading contributor giving across state lines. One committee in California received \$200,000, three committees in Nevada shared \$842,600, and one Texas committee received \$50,000.

The U.S. Chamber of Commerce spread \$945,000 around four states, making it the second-largest contributor in multiple states. A California committee received the majority of the cash, \$495,000. Committees in Colorado, Nevada and Texas received \$150,000, \$100,000 and \$200,000 respectively.

California was the most popular destination of cash from these contributors; twenty-nine of the 46 multistate contributors gave to committees in that state. Nevada was not far behind, with its committees receiving money from 28 contributors. Twenty-one of the 22 insurance companies on the list of multistate contributors gave money in Nevada to fight the ballot measure designed to increase regulations on the companies.

Three individuals gave to committees in multiple states. James Sturdevant, a plaintiffs' attorney from San Francisco, gave \$267,500 to committees in Oregon and California. William A. Gaylord, a Portland, Ore., trial attorney, gave \$24,500 to committees in Oregon, Texas, and Wyoming. Gaylord was part of a team of lawyers who won an \$80 million verdict against cigarette manufacturer Philip Morris for the family of a man who died from smoking-related lung cancer.⁵⁷

⁵⁷ *Gaylord Eyerma Bradley, PC*, [on-line]; available from <http://www.gaylordeyerma.com/about.html> and <http://www.gaylordeyerma.com/gaylord.html>; Internet; accessed Feb. 17, 2006.

Sharon Arkin, a plaintiffs' attorney with the California law firm Robinson, Calcagnie & Robinson, gave \$6,000 to committees in California and Wyoming. Her firm is the statewide plaintiffs' liaison

counsel for the diet drug litigation in which American Home Products (now Wyeth) faces claims by consumers nationwide who used a potentially harmful combination of diet drugs.⁵⁸

The cross-state involvement was not always limited to campaign contributions, either.

Two committees, one in Wyoming and one in Oregon, ran the same ad exhorting voters to oppose caps on damages.⁵⁹ The ad — named “Becky” — was produced for Citizens for Real Insurance Reform in Wyoming by All Points Communications, Inc., a New Hampshire-based political communications firm.⁶⁰ The Oregon committee running the same ad, Coalition for Real Insurance Reform, listed on finance-disclosure forms a payment of \$10,000 on Oct. 14, 2004, to All Points Communications for preparation and production of advertising.⁶¹ The committees also had three contributors in common, including the Association of Trial Lawyers of America (ATLA), William A. Gaylord and the Maine Trial Lawyers Association. ATLA gave \$10,000 in Wyoming and \$30,000 in Oregon. Gaylord, currently the senior ATLA governor in Oregon,⁶² gave \$22,500 in Oregon and \$1,000 in Wyoming. The Maine Trial Lawyers Association gave \$1,000 in each state.

MAJOR CONTRIBUTORS ACROSS STATE LINES, 2004

CONTRIBUTOR	STATES	TOTAL
State Farm	CA/NV/TX	\$1,092,642
U.S. Chamber of Commerce	CA/CO/NV/TX	\$945,000
Farmers Insurance	CA/NV	\$807,791
Hospital Corp. of America/HCA	NV/TX	\$783,333
Allstate Insurance	CA/NV	\$524,413
Kaiser Permanente	CA/OR	\$502,500
American Medical Association/AMA	FL/NV/OR/TX/WY	\$500,000
Pfizer	CA/FL/NV/OR/WY	\$447,100
Blue Cross/Blue Shield Companies	CA/NV/OR	\$415,975
Travelers	CA/NV	\$348,125
Philip Morris	CA/TX	\$279,065
Sturdevant, James	CA/OR	\$267,500
United Services Automobile Association/USAA	CA/NV/TX	\$266,670
Zurich American Insurance	CO/NV/TX	\$256,212
Tenet Healthcare Corp.	FL/TX	\$217,154
Countrywide Home Loans	CA/CO/NV	\$206,817

⁵⁸ “Sharon J. Arkin,” *Robinson Calcagnie & Robinson* [on-line]; available from http://www.robinson-pilaw.com/bios/Sharon_Arkin.htm; Internet; accessed Feb. 23, 2006.

⁵⁹ James Mayer, “Adwatch: Measure 35,” *The Oregonian*, Oct. 24, 2004, sec. D, p. 7.

⁶⁰ “Our Work,” *All Points Communications, Inc.* [on-line]; available from <http://www.allpoints.com/work2.htm>; Internet; accessed Feb. 24, 2006, and “2005 Inaugural Pollic Awards: The Winners,” *American Association of Political Consultants* [on-line]; available from <http://www.theaapc.org/content/pollicawards/pastwinners/pastwinners2005.pdf>; Internet; accessed Feb. 24, 2006.

⁶¹ “Coalition for Real Insurance Reform 2nd Pre-Election Report,” *Oregon Secretary of State* [on-line]; available from http://egov.sos.state.or.us/elec_images/c&e_search.html; Internet; accessed Feb. 24, 2006.

⁶² *Gaylord Eyerma Bradley, PC*, [on-line]; available from <http://www.gaylordeyerma.com/about.html>; Internet; accessed Feb. 17, 2006.

CONTRIBUTOR	STATES	TOTAL
Progressive Casualty Insurance	CA/NV	\$200,802
American International Group/AIG	CA/CO/NV	\$170,000
American Family Insurance	CO/NV	\$162,588
Wal-Mart	CA/TX	\$150,000
Continental Casualty Co.	CO/NV/OR	\$143,761
Association of Trial Lawyers of America/ATLA	FL/OR/WY	\$140,000
Johnson & Johnson	CA/WY	\$126,000
Nationwide Mutual Insurance	CA/NV	\$111,000
Citigroup	CA/TX	\$110,000
21st Century Insurance	CA/NV	\$105,185
Firemans Fund Insurance Companies	CA/NV	\$100,074
Wells Fargo	CA/CO/NV	\$65,250
American Insurance Association/AIA	NV/TX	\$60,000
Liberty Mutual Insurance	CO/NV	\$56,338
Ace American Insurance Co.	CA/NV	\$54,568
The Doctors Co.	CA/NV/OR/TX/WY	\$33,000
American Academy of Orthopaedic Surgeons	FL/WY	\$30,000
American College of Obstetricians & Gynecologists	NV/OR	\$30,000
Georgia-Pacific	CA/TX	\$30,000
Lockheed Martin	CA/TX	\$30,000
Wyeth Pharmaceuticals	CA/OR	\$25,125
Gaylord, William A.	OR/TX/WY	\$24,500
Medtronic	FL/TX	\$19,957
Pacificare	CA/NV	\$15,500
Metropolitan Life Insurance/Metlife	CA/NV	\$15,000
Boise Cascade Corp.	CO/OR	\$8,000
HealthSouth	NV/OR	\$7,000
Arkin, Sharon	CA/WY	\$6,000
Maine Trial Lawyers Association	OR/WY	\$2,000
TOTAL		\$9,891,945

MEDICAL MALPRACTICE MEASURES

Florida

Although the 2003 Florida Legislature passed a bill limiting noneconomic damages in medical malpractice cases,⁶³ doctors and their perpetual adversaries, trial lawyers, both used the initiative process in 2004 to push through additional measures to regulate lawsuits.

The medical community sponsored Amendment 3, to place in the state constitution limits on lawyers' fees in medical malpractice cases. Lawyers may only receive 30 percent of the first \$250,000 of an award and 10 percent of the remaining amount of the award.⁶⁴

Trial lawyers backed Amendment 7, to allow patients to request records of "adverse incidents" from doctors or health-care facilities, and Amendment 8, to bar doctors who have committed three or more incidents of medical malpractice from practicing in Florida

⁶³ Mary Ellen Klas, "Duel Continues on Eve of Malpractice Law," *Palm Beach Post*, Sept. 13, 2003, sec. A, p. 1.

⁶⁴ *Ibid.*

After a pitched battle in which political committees raised more than \$32.8 million — most of which was spent on supporting or opposing Amendment 3⁶⁵ — all three amendments passed. The amount raised for the fight was reportedly more than any recent gubernatorial or U.S. Senate race in Florida.⁶⁶

CONTRIBUTIONS TO THE FLORIDA LIABILITY MEASURES, 2004

COMMITTEE	POSITION	TOTAL
Floridians for Patient Protection	For 7 & 8/Against 3	\$24,644,886
Citizens for a Fair Share	For 3/Against 7 & 8	\$8,100,861
Citizens for Tort Reform	For 3	\$129,730
TOTAL		\$32,875,477

Floridians for Patient Protection, a committee largely backed by trial lawyers, sponsored and promoted Amendments 7 and 8 in addition to fighting against Amendment 3. It also raised far more than any other committee, gathering in \$24.6 million. That amount represents 75 percent of the \$32.8 million raised by all three committees active in the ballot fight. Lawyers contributed 91 percent, or \$22.3 million, to Floridians for Patient Protection. The Academy of Florida Trial Lawyers gave almost \$935,000 in loans and direct contributions. Much of the money was paid back.

Citizens for a Fair Share, the committee sponsoring Amendment 3, raised \$8.1 million. Its close ties with the Florida Medical Association were apparent in a number of ways:

- The chairman of Citizens for a Fair Share was the executive director of the Florida Medical Association (FMA), Sandra Mortham.⁶⁷
- The FMA and its affiliate for physicians' spouses — the Florida Medical Association Alliance — gave Citizens for a Fair Share about \$2.16 million in direct and in-kind contributions. In addition, the FMA made a \$1 million loan to the committee that was later repaid. Other health care professionals gave more than \$5 million to the committee.
- Citizens for Tort Reform, a committee established by the Florida Medical Association to seek a constitutional amendment in 2004 to cap noneconomic damages,⁶⁸ raised \$129,730 in 2003. When it closed in late 2003, Citizens for Tort Reform forwarded the balance of its account — \$439,630 — to Citizens for a Fair Share.⁶⁹

⁶⁵ Lisa Greene, "Voters Call a Draw in Doctor-Lawyer Fight," *St. Petersburg Times*, Nov. 3, 2004, sec. B, p. 7.

⁶⁶ Joni James, "Amendments Fight Garners Record Cash," *St. Petersburg Times*, Oct. 20, 2004, sec. D, p. 1.

⁶⁷ *Ibid.*

⁶⁸ Sandra Mortham, "FMA Tort Reform Initiative," *Duval County Medical Society* [on-line]; available from <http://www.dcmsonline.org/jax-medicine/2002journals/novdec2002/fmainitiative.htm>; Internet; accessed Jan. 26, 2006.

⁶⁹ "The Florida Medical Association House of Delegates Votes to Seek Constitutional Amendment to Limit Contingency Fees," *Florida Obstetric and Gynecologic Society* [on-line]; available from <http://flobgyn.org/leg/2112.php>; Internet; accessed Feb. 7, 2006.

TOP CONTRIBUTORS TO THE FLORIDA LIABILITY MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Florida Medical Association	FL	Health Professionals	Pro 3/Con 7 & 8	\$2,004,166
Searcy Denney Scarola Barnhart & Shipley	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$1,051,450
Brown Terrell Hogan Ellis McClamma & Yegelwel	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$947,280
Grossman & Roth	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$700,000
Pajcic & Pajcic	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$635,000
Maher Guiley Maher	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$625,000
Krupnick Campbell Malone Buser Slama Hancock Liberman & McKee	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$550,000
Citizens for Tort Reform	FL	Business Associations	Pro 3	\$439,630
Harrell & Johnson	FL	Lawyers & Lobbyists	Pro 7 & 8/Con 3	\$420,000
CFS	FL	Unknown	Pro 7 & 8/Con 3	\$370,000
			TOTAL	\$7,742,526

Nevada

Marked by several court battles, accusations of bait-and-switch tactics, complaints about financial disclosure, and protests by doctors in the streets, Nevada’s 2004 ballot-measure campaigns were contentious and expensive by any measure.

Dissatisfied with the results of the Nevada Legislature’s 2002 special session to rein in medical malpractice insurance costs, doctors filed an initiative to limit attorneys’ fees in malpractice cases. Opponents fired back with measures of their own. In the end, three ballot measures involving lawsuits ended up on the 2004 ballot:

- Question 3, entitled Keep Our Doctors in Nevada, to further limit the amount of noneconomic damages a patient could seek, as well as limit the fees an attorney could charge patients who brought suit against health-care providers.
- Question 4, the Insurance Rate Reduction and Reform Act. This far-reaching initiative would have required insurance companies to roll back auto insurance rates, subjected the industry to consumer protection and antitrust laws, and required the governor to appoint an Insurance Commissioner. It also included a clause stating any statute in effect in December 2006 that limited noneconomic damages would be void unless malpractice judgments and medical malpractice liability rates for medical providers dropped at least 10 percent each year since the caps were passed.⁷⁰

⁷⁰ Sean Whaley, “Duplicity Alleged of Ballot Measures,” *Las Vegas Review-Journal*, June 8, 2004, sec. A, p. 1.

- Question 5, the Stop Frivolous Lawsuits and Protect Your Legal Rights Act. It would have amended the Constitution to penalize any lawyer involved in “vexatious and frivolous” lawsuits and to void any changes made to Nevada law between 2004 and 2006 if those changes reduced the amount of damages a person can recover for negligent or wrongful conduct.

Questions 4 and 5 were filed by People for a Better Nevada, a committee with ties to the Nevada Trial Lawyers Association.⁷¹

Question 3, containing limits on lawsuits, won voter approval. Questions 4 and 5 both failed.

Five committees raised more than \$10.9 million for the ballot campaigns. A sixth committee formed by the American College of Surgeons Professional Association spent just over \$15,000 on newspaper advertising but did not raise funds during the election cycle.⁷²

CONTRIBUTIONS TO THE NEVADA LIABILITY MEASURES, 2004

COMMITTEE	POSITION	TOTAL
Nevadans Against Frivolous Lawsuits	Against Questions 4 & 5	\$5,726,692
Keep Our Doctors in Nevada	For Question 3	\$3,639,952
Yes on Questions 4 and 5	For Questions 4 & 5	\$1,481,744
Nevada State Medical Association	Against Question 4	\$37,300
Alrus Consulting	Against Question 4	\$18,000
	TOTAL	\$10,903,688

The top fund-raiser was Nevadans Against Frivolous Lawsuits, a committee formed to fight Questions 4 and 5. Members of the committee include the state medical association, the Associated General Contractors and the Las Vegas Chamber of Commerce.⁷³ The finance, insurance and real estate sector contributed almost \$5.3 million, or 93 percent of the total the committee raised. The health sector contributed \$192,750, while the U.S. Chamber of Commerce contributed \$100,000.

Keep Our Doctors in Nevada, which supported successful Question 3, raised more than \$3.6 million, mostly from hospitals and doctors. Hospitals and nursing homes gave more than \$2 million to the committee, or 55 percent of its total. Health professionals, including doctors and nurses, contributed another 30 percent, or \$1 million, to the successful campaign

⁷¹ Ed Vogel, “Backers Not Named for Ballot Efforts,” *Las Vegas Review-Journal*, Sept. 2, 2004, sec. B, p. 4, and Sean Whaley, “Trial Lawyers Group Backs Two Contentious Initiatives,” *Las Vegas Review-Journal*, June 10, 2004, sec. B, p. 1.

⁷² American College of Surgeons Professional Association Annual Filing, *Nevada Secretary of State* [on-line]; available from <http://sos.state.nv.us/Contributions.asp?nd=D%3A%5C000Contributions%5Fand%5FExpenses%5Fand%5FFinancial%5FDisclosures%5C0002004%5FReports%5C000Ballot%5FAdvocacy%5FGroup%5C000American%5FCollege%5Fof%5FSurgeons%5FProfessional%5FAssociation>; Internet; accessed March 20, 2006.

⁷³ Juliet V. Casey, “Group Launches Campaign to Stop Lawyer-Backed Measures,” *Las Vegas Review-Journal*, Sept. 14, 2004, sec. B, p. 3.

The Yes on Questions 4 and 5 committee raised all its money from one source: a nonprofit organization named People for a Better Nevada, which had done the work to get the proposals on the ballot. The committee raised almost \$1.5 million, but all the contributions were in-kind contributions of services. These services included payments for legal and consulting help, media buys, mailings, and help from a signature-gathering firm.

People for a Better Nevada has close ties with the Nevada Trial Lawyers Association. The secretary for Yes on Questions 4 and 5, Gail Tuzzolo, is a consultant for People for a Better Nevada,⁷⁴ while Beverly Salhanick — the contact person for both People for a Better Nevada and the Yes on Questions 4 and 5 committees — is also the treasurer of the Nevada Trial Lawyers Association.

The Nevada State Medical Association committee raised \$37,300. Keep Our Doctors in Nevada gave \$33,300, and three insurance companies contributed the remainder of the cash.

Alrus Consulting raised \$18,000 to fight Questions 4 and 5. The Nevada State Medical Association contributed \$8,000; the Retailers Association of Nevada gave \$1,000. The remainder came from insurance companies. Alrus Consulting is operated by Scott Craigie,⁷⁵ a spokesman and consultant for Keep Our Doctors in Nevada. Craigie and his partner at Alrus Consulting count the Nevada State Medical Association among their clients.⁷⁶

TOP CONTRIBUTORS TO THE NEVADA LIABILITY MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
People For A Better Nevada	NV	Single-Issue Groups	Pro Questions 4 & 5	\$1,481,744
Property Casualty Insurers	IL	Insurance	Con Questions 4 & 5	\$872,000
State Farm	IL	Insurance	Con Questions 4 & 5	\$842,642
Farmers Insurance	CA	Insurance	Con Questions 4 & 5	\$707,791
Hospital Corp. of America/HCA	TN	Hospitals/Nursing Homes	Pro Question 3	\$483,333
Catholic Healthcare West	AZ/NV	Hospitals/ Nursing Homes	Pro Question 3/ Con Questions 4 & 5	\$480,000
Allstate Insurance	AZ/IL	Insurance	Con Questions 4 & 5	\$424,413
Sunrise Hospital & Medical Cntr	NV	Hospitals/Nursing Homes	Pro Question 3	\$375,000
Travelers	DE	Insurance	Con Questions 4 & 5	\$298,125
Zurich American Insurance	IL	Insurance	Con Questions 4 & 5	\$238,712
			TOTAL	\$6,203,760

⁷⁴ Juliet V. Casey, "Group Launches Campaign to Stop Lawyer-Backed Measures," *Las Vegas Review-Journal*, Sept. 14, 2004, sec. B, p. 3, and Ed Vogel, "Backers Not Named for Ballot Efforts," *Las Vegas Review-Journal*, Sept. 2, 2004, sec. B, p. 4.

⁷⁵ Kirsten Searer, "Big Battle Brews Over Ballot Questions 4, 5," *Las Vegas Sun*, Sept. 14, 2004 [on-line]; available from <http://www.lasvegassun.com/sunbin/stories/text/2004/sep/14/517508105.html>; Internet; accessed Jan. 31, 2006.

⁷⁶ "Dr. Evin's Challenge," *Clark County Medical Society County Line* [on-line]; Newsletter 65, June 2005, available from <http://www.clarkcountymedical.org/County%20Line%202005/County%20Line%20June%202005.htm>; Internet; accessed Feb. 21, 2006.

Oregon

Supporters and opponents of Oregon’s Measure 35 — to cap noneconomic damages in medical malpractice lawsuits at \$500,000 — set a fund-raising record in Oregon when they racked up more than \$9.1 million for the 2004 election.⁷⁷ The two committees supporting the measure collected 81 percent of the total, or \$7.4 million; the two committees opposing the measure raised only \$1.73 million. The measure ultimately failed, although the margin was small.

The campaign was marked by a series of controversial advertisements from both sides, as well as high-profile individuals declaring support for or opposition to the measure.

Former Oregon Gov. John Kitzhaber, a Democrat, wrote a letter in support of limiting noneconomic damages but then complained when the letter was used without his permission by Oregonians for Quality, Affordable and Reliable Healthcare in a mailing to urge voters to pass the measure.⁷⁸ That same voters’ guide came under fire from Oregon Secretary of State Bill Bradley, a Democrat, for mimicking the style of the state’s own voters’ pamphlet.⁷⁹

Opponents of Measure 35 included Erin Brockovich, the legal assistant to a plaintiffs’ attorney who was made famous by actress Julia Roberts in a movie of the same name. Brockovich appeared in an ad urging voters to reject the measure.⁸⁰

The campaign against Measure 35 — spearheaded by Citizens for Real Insurance Reform — changed the wording of another television spot after the Oregon Association of Broadcasters issued a warning to stations about the truthfulness of the ad.⁸¹

CONTRIBUTIONS TO THE OREGON LIABILITY MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Oregonians for Quality, Affordable and Reliable Health Care	For	\$6,141,571
Coalition for Real Insurance Reform	Against	\$1,713,671
Hospitals for Liability Fairness PAC	For	\$1,264,184
PAC 483	Against	\$17,057
	TOTAL	\$9,136,483

⁷⁷ Ley Garnett, “Medical Liability Measure Will Shatter Spending Record,” *Oregon Public Broadcasting News*, Sept. 27, 2004 [on-line]; available from http://www.publicbroadcasting.net/opb/news.newsmain?action=article&ARTICLE_ID=689374; Internet; accessed Jan. 25, 2006.

⁷⁸ James Mayer, “Kitzhaber Rails at Use of His Letter in Measure 35 Mock Voters’ Guide,” *The Oregonian*, Oct. 21, 2004, sec. D, p. 4.

⁷⁹ Brent Hunsburger, “Secretary of State Takes Exception to Voters’ Pamphlet Look-Alike,” *The Oregonian*, Oct. 18, 2004, sec. D, p. 3.

⁸⁰ James Mayer, “Adwatch: No on Measure 35, Medical Malpractice,” *The Oregonian*, Sept. 24, 2004, sec. D, p. 5.

⁸¹ James Mayer, “Measure 35 Opponents Alter TV Ad,” *The Oregonian*, Oct. 15, 2004, sec. D, p. 5, and P-I Staff and News Services, “Political Ad Prompts Broadcasters’ Warning,” *Seattle Post-Intelligencer*, Oct. 18, 2004, sec. B, p. 3.

Oregonians for Quality, Affordable and Reliable Health Care, a committee sponsored by the Oregon Medical Association and the Oregon Association of Hospitals and Health Systems,⁸² raised the most among the four committees active on the measure. The committee directors — three doctors — were also listed with the Oregon Secretary of State’s office as the sponsors of the measure. Oregonians for Quality, Affordable and Reliable Health Care raised \$6.14 million, or 83 percent of the money raised to support the measure and more than two-thirds of the total raised for or against Measure 35.

Of the \$6.14 million raised by Oregonians for Quality, Affordable and Reliable Health Care, \$1.75 million came from a petition committee called Oregonians for Quality, Affordable and Reliable Health Care #1. The committee formed to put a measure on the ballot limiting lawyers’ contingency fees in malpractice lawsuits. A petition committee files to support a potential ballot measure during the signature collection and approval process. Once a petition qualifies for the ballot, a committee can change its statement of organization to reflect its support for the new measure; or, as in this case, since the petition failed to make it to the ballot, the committee can give away its cash and close its account.

Not surprisingly, 30 percent — or \$1.85 million — of the money given to Oregonians for Quality, Affordable and Reliable Health Care came from hospitals and nursing homes. About \$1.25 million of the hospital money came from Hospitals for Liability Fairness, another committee formed to support the measure. Doctors and other health-care professionals gave the committee \$1.7 million.

Money given by the health-care industry and the petition committee constituted 92 percent of the total for Oregonians for Quality, Affordable and Reliable Health Care and 62 percent of the total raised by all four committees.

In contrast, the insurance industry gave only \$134,182 to Oregonians for Quality, Affordable and Reliable Health Care.

The Coalition for Real Insurance Reform, the main opponent of Measure 35, raised \$1.7 million. Lawyers donated 95 percent of the money, or \$1.63 million. This included \$136,500 from associations representing trial lawyers, including the Association of Trial Lawyers of America, the Oregon Trial Lawyers Association and associations from Arizona, Idaho, Kentucky, Maine, Michigan and Nebraska.

The Hospitals for Liability Fairness PAC raised \$1.26 million, most of which it later donated to Oregonians for Quality, Affordable and Reliable Health Care. Because the money raised by the Hospitals for Liability Fairness PAC is similar in amount to what it gave to Oregonians for Quality, Affordable and Reliable Health Care, the money may be in disclosure reports twice, once as received by the PAC and again as given to Oregonians for Quality, Affordable and Reliable Health Care. Hospitals, nursing homes and other organizations providing health services contributed nearly all of the PAC’s money.

PAC 483 is a ballot measure committee formed by the Laborers’ International Union of North America, Local 483. It raised \$17,057 for its campaign in opposition to four ballot measures, including Measure 35. All of its money came from City of Portland workers and contributions below the state’s threshold amount for reporting the names of contributors.

⁸² “Major Milestone Achieved in Medical Liability Reform Efforts,” *Oregon Medical Association*, July 6, 2004 [online]; available from <http://www.theoma.org/News.asp?NewsID=83>; Internet; accessed March 20, 2006.

TOP CONTRIBUTORS TO THE OREGON LIABILITY MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Oregonians for Quality Affordable & Reliable Health Care Committee #1	OR	Single-Issue Group	Pro	\$1,746,547
Hospitals for Liability Fairness	OR	Hospitals/Nursing Homes	Pro	\$1,253,384
PeaceHealth	OR	Hospitals/Nursing Homes	Pro	\$377,482
Mid-Valley IPA, Inc.	OR	Health Professionals	Pro	\$300,000
Providence Health System	OR	Hospitals/Nursing Homes	Pro	\$250,000
Kaiser Foundation Health Plan of the Northwest	OR	Health Services	Pro	\$215,000
Legacy Health System	OR	Hospitals/Nursing Homes	Pro	\$215,000
Salem Hospital Regional Health Services	OR	Hospitals/Nursing Homes	Pro	\$175,000
Pfizer	NY	Pharmaceuticals	Pro	\$150,000
Rogers, Richard M.	OR	Lawyers & Lobbyists	Con	\$150,000
TOTAL				\$4,832,413

Texas

The lengthy Texas Constitution became even longer in September 2003 when voters approved 22 amendments to the document. Among these changes was Proposition 12, which allows the Texas Legislature to limit noneconomic damages in medical malpractice suits, as well as in other types of lawsuits.

Under Proposition 12, any attempt to limit damages must be passed by a three-fifths majority of each house of the legislature. Proponents of the limits placed Proposition 12 on the ballot to protect the limits enacted for medical malpractice lawsuits during the 2003 legislative session. House Bill 4 limited damages to \$250,000 per medical provider or hospital, with a maximum pay out of \$750,000. The Texas Supreme Court had struck down as unconstitutional previous laws limiting noneconomic damages.

The amendment passed narrowly, garnering 51 percent of the vote.

As in other states, high-profile proponents and opponents of the measure were visible on the campaign trail. Two former Republican Texas Supreme Court justices — Deborah Hankinson and James A. Baker — opposed the measure, saying it would upset the balance between the legislative and judicial branches of state government.⁸³ On the other side, Republican Gov. Rick Perry traveled statewide warning that failure to pass the amendment would leave Texans with fewer doctors and less access to health care.⁸⁴

Nine committees raised more than \$18 million for the Proposition 12 campaign. Four committees opposing the measure raised 54 percent of this total, or \$9.7 million. Five committees supporting it raised almost \$8.3 million. Although each side's major committee claimed to be up against a well-financed foe who could outraise it,⁸⁵ neither of the main committees for or against the amendment

⁸³ Janet Elliot, "Lopsided Fund-raising Reported in Campaign Over Lawsuit Limits in Texas," *Houston Chronicle*, July 17, 2003.

⁸⁴ Lisa Falkenberg, "Perry Tours State to Promote Amendment Limiting Lawsuit Awards," *Associated Press*, Aug. 20, 2003.

⁸⁵ Janet Elliott, "Lopsided Fund-raising Reported in Campaign Over Lawsuit Limits in Texas," *Houston Chronicle*, July 17, 2003.

had any problems raising cash. In fact, they raised similar amounts. Save Texas Courts, opposing the amendment, raised almost \$7.6 million; Yes on 12 brought in nearly \$7.2 million.

Lawyers were the top contributors to Texas committees, giving \$8.9 million of the \$18 million raised by Proposition 12 committees. Doctors and other health professionals contributed \$2 million, while hospitals and nursing homes gave another \$2 million. Business associations such as the U.S. Chamber of Commerce, the Texas Alliance for Patient Access, and Texans for Lawsuit Reform gave nearly \$2 million to various committees.

CONTRIBUTIONS TO THE TEXAS LIABILITY MEASURE, 2003

COMMITTEE	POSITION	TOTAL
Save Texas Courts	Against	\$7,595,130
Yes on 12	For	\$7,192,220
Texans for Patients' Rights	Against	\$1,807,808
Physicians Caring for Texas	For	\$936,578
Keep Your Rights	Against	\$209,960
Texans Against Proposition 12	Against	\$127,699
Nueces County Medical Society	For	\$69,045
HeartPlace PAC	For	\$68,025
Gregg County Citizens for Proposition 12	For	\$32,297
	TOTAL	\$18,038,762

Save Texas Courts gathered most of its cash from lawyers. Almost 94 percent, or \$7.1 million, came from this group of contributors. General business sources chipped in another \$103,750.

Yes on 12 drew 79 percent of its money from the health and the general business sectors. Hospitals, nursing homes, doctors and other health-care providers gave \$3.36 million to the committee, while general business sources gave \$2.34 million. Companies ranging from R.J. Reynolds Tobacco, Philip Morris, AOL Time Warner, Exxon Mobil, Wal-Mart and Halliburton all donated money to Yes on 12.

Many of these companies had an interest in helping Proposition 12 pass because it would allow the Texas Legislature to enact further caps on other types of damages in civil lawsuits. Also, the *Houston Chronicle* noted that three telecommunications companies donating to the Yes on 12 campaign — AOL Time Warner, AT&T, and SBC Communications — were embroiled in a battle over who should be allowed to provide Internet telephone services. Such services are regulated by the Texas Public Utility Commission to which Gov. Perry, the high-profile advocate for Yes on 12, appoints members.⁸⁶ Together, these three companies gave almost \$370,000 in direct and in-kind contributions to Yes on 12.

Although the opposition accused insurance companies of pouring money into the campaign to pass Proposition 12,⁸⁷ the finance, insurance and real estate sector only gave \$212,700 to the Yes on 12 committee and \$135,800 to other committees involved in the initiative election. However, the Texas Alliance for Patient Access (TAPA), a coalition of health-care providers and insurance

⁸⁶ John Williams, "Telecom Companies Awaiting Texas PUC Ruling Back Malpractice Caps Effort," *Houston Chronicle*, Sept. 11, 2003.

⁸⁷ Janet Elliott, "Lopsided Fund-raising Reported in Campaign Over Lawsuit Limits in Texas," *Houston Chronicle*, July 17, 2003.

companies whose goal is “to improve access to health care by passing meaningful and sustainable medical liability reforms,”⁸⁸ gave \$1.2 million. TAPA was the largest contributor to Yes on 12, giving 17 percent of the committee’s total funds.

Texans for Patients’ Rights, which opposed the proposition, raised \$1.8 million; nearly all of this amount, \$1.7 million, came from lawyers. The Texas Trial Lawyers Association (TTLA) contributed \$1.14 million, or 63 percent of the committee’s total.

Physicians Caring for Texas, a political action committee of the Texas Medical Association that supported the proposition, collected \$936,500. The bulk of the money came from doctors and other health professionals. The committee contributed \$600,000 to Yes on 12, making Physicians Caring for Texas one of Yes on 12’s top contributors. Because the money raised by Physicians Caring for Texas is similar in amount to what it gave to Yes on 12, the money may be in disclosure reports twice, once as received by Physicians Caring for Texas and again as given to Yes on 12

Five smaller committees also raised money for or against Proposition 12. Two committees opposed to the proposition raised \$337,658; three committees supporting it raised \$169,367. Lawyers gave \$157,250 to these committees, while the health sector contributed \$137,765. Single-issue and ideological groups gave \$126,650. All of this money came from two Texas nonprofit organizations: TexasWatch, a state consumer group, gave \$107,550 to Texans Against Proposition 12, and Texans for Public Justice, which tracks state campaign finances, gave \$19,100 to the same committee.

TOP CONTRIBUTORS TO THE TEXAS LIABILITY MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Texas Alliance For Patient Access	TX	Business Associations	Pro	\$1,225,000
Texas Trial Lawyers Association	TX	Lawyers & Lobbyists	Con	\$1,146,833
Texas Hospital Association	TX	Hospitals/Nursing Homes	Pro	\$781,000
Physicians Caring for Texas	TX	Health Professionals	Pro	\$600,000
Texas Medical Association	TX	Health Professionals	Pro	\$350,500
Jamail, Joseph D.	TX	Lawyers & Lobbyists	Con	\$350,000
Provost & Umphrey	TX	Lawyers & Lobbyists	Con	\$350,000
Baron & Budd	TX	Lawyers & Lobbyists	Con	\$325,000
Hospital Corp. of America/HCA	TN	Hospitals/Nursing Homes	Pro	\$300,000
Texans for Lawsuit Reform	TX	Business Associations	Pro	\$300,000
Waters & Kraus	TX	Lawyers & Lobbyists	Con	\$300,000
			TOTAL	\$6,028,333

Wyoming

Wyoming voters considered two lawsuit liability amendments in 2004 in what would prove a contentious and costly campaign. Amendment C allows the Legislature to require dispute resolution or a medical panel review of cases before a person can file a lawsuit against a health-care provider. Amendment D would have allowed the Legislature to enact laws limiting the amount of noneconomic damages a person could be awarded in a suit against a health-care

⁸⁸ “About TAPA,” *Texas Alliance for Patient Access* [on-line]; available from www.tapa.info/HTML/About.html; Internet; accessed Feb. 8, 2006.

provider. Both measures were referred to voters by the Legislature, which held a special session in 2004 to consider the problem of high medical malpractice premiums for Wyoming doctors.

Amendment C passed narrowly, gathering 50.5 percent of the total votes cast. It received only 1,282 votes more than the necessary threshold for passage. Amendment D failed when it gathered only 47.8 percent of the total votes cast.

The four committees involved with the amendments raised more than \$1.7 million, with the money almost evenly split between groups supporting and opposing the measures. Three committees supporting the amendments raised nearly \$849,000, while one committee opposing the amendments raised about \$872,250.

CONTRIBUTIONS TO THE WYOMING LIABILITY MEASURES, 2004

COMMITTEE	POSITION	TOTAL
Citizens for Real Insurance Reform	Against	\$872,257
Partnership to Protect Affordable Healthcare	For	\$779,593
Physicians United to Save Healthcare Wyoming	For	\$65,450
CCMS PAC	For	\$3,908
	TOTAL	\$1,721,208

Lawyers gave more than \$830,000 — or 48 percent — of the money given to the ballot committees and channeled all their contributions to Citizens for Real Insurance Reform, the only committee opposing the measures. The lawyers’ contributions made up 95 percent of that committee’s total.

Doctors and other health professionals gave 34 percent, or \$588,000, to the committees. Although the money was split among the three committees supporting the measures, the bulk of the money — \$582,400 — went to Partnership to Protect Affordable Healthcare. The chairman of that committee, Dr. Robert Monger,⁸⁹ is also president of the Wyoming Medical Society. The Medical Society gave \$147,700 — or 25 percent — of the money given by the doctors.

Physicians United to Save Healthcare (PUSH) gave the Partnership to Protect Affordable Healthcare \$30,000. PUSH raised \$65,450 to support the amendments. It is possible that this money was reported twice: once as received by PUSH and once as given to the Partnership to Protect Affordable Healthcare.

Contributors from outside of Wyoming gave slightly more than 10 percent of the money raised by the four committees, at \$179,700. Six of the contributors gave a total of \$159,000 to the Partnership to Protect Affordable Healthcare, to support the amendments:

- The American Medical Association gave \$100,000, or 56 percent, of the out-of-state contributions.
- The Pfizer pharmaceutical company gave \$30,000.

⁸⁹ Ilene Olson, “Battle Over Medical Review, Malpractice Amendments in Wyoming Cost Big Money,” *Wyoming Tribune Eagle*, Nov. 26, 2004 [newspaper on-line]; available from http://network.isyndicate.com/headlinefetcher/yb_article.phtml?a=41a7b93d.65cf.11.1&c=ktrbn.realestate.ft&d=20041126; Internet; cached version accessed Jan. 23, 2006.

- The American Association of Orthopaedic Surgeons gave \$20,000.
- The Doctors Co., a doctor-owned liability insurer, gave \$5,000.
- Pharmaceutical Research & Manufacturers of America (PHARMA) gave \$3,000.
- Johnson & Johnson gave \$1,000.

The Association of Trial Lawyers of America gave \$10,000 to Citizens for Real Insurance Reform to fight the measures. Of the remaining out-of-state money, \$10,490 went to oppose the measures, while \$6,250 went to support them.

TOP CONTRIBUTORS TO THE WYOMING LIABILITY MEASURES, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Wyoming Trial Lawyers Association	WY	Lawyers & Lobbyists	Con	\$559,391
Wyoming Medical Society	WY	Health Professionals	Pro	\$147,700
Wyoming Hospital Association	WY	Hospitals	Pro	\$110,000
American Medical Association	IL	Health Professionals	Pro	\$100,000
Southeast Wyoming Preferred Physicians	WY	Health Professionals	Pro	\$75,000
Balzer Carman Murdock	WY	Lawyers & Lobbyists	Con	\$50,000
Schuster, Robert P.	WY	Lawyers & Lobbyists	Con	\$50,000
Shively Taheri & Rochelle	WY	Lawyers & Lobbyists	Con	\$50,000
Pfizer	NY	Pharmaceuticals	Pro	\$30,000
Physicians United to Save Healthcare Wyoming/PUSH	WY	Health Professionals	Pro	\$30,000
			TOTAL	\$1,202,091

LIABILITY ON OTHER FRONTS

California

Proposition 64, one of many measures on California's 2004 ballot, altered the state's Unfair Competition Law. The proposition, which passed with 59 percent of the vote, gives only public prosecutors and people who have suffered actual damages the right to sue businesses under this law.⁹⁰ Before the proposition, individuals or organizations could sue businesses to enforce laws on behalf of the public, even if they had not been harmed by that business.

A California Chamber of Commerce-led committee, Californians to Stop Shakedown Lawsuits, sponsored the initiative and raised money to support it during the campaign season.⁹¹ The chamber gave \$495,000 to this committee, which raised more than \$14.6 million for its effort. In fact, the two committees supporting Proposition 64 raised 86 percent of the \$23.7 million raised by all

⁹⁰ Steve Johnson, "Businesses Hail Limiting Private Suits," *San Jose Mercury News*, Nov. 4, 2004, sec. C, p. 1.

⁹¹ "Initiative Campaign to Stop Shakedown Lawsuits Underway," *California Chamber of Commerce* [on-line]; Jan. 6, 2003, available from <http://www.calchamber.com/CC/Headlines/Archive/Economy/InitiativeCampaignToStopShakedownLawsuitsUnderway.htm>; Internet; accessed Feb. 22, 2006.

committees active for or against the proposition. Californians to Stop Shakedown Lawsuits raised almost 72 percent of this total.

Only one committee formed to oppose Proposition 64: Public Health Warning. Sponsored by the Foundation for Taxpayer and Consumer Rights, a consumer group, it raised \$3.2 million.

CONTRIBUTIONS TO THE CALIFORNIA LIABILITY MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Yes on 64/Californians to Stop Shakedown Lawsuits	For	\$14,666,795
California Motor Car Dealers Association Fund to Stop Shakedown Lawsuits/Yes on 64	For	\$5,828,747
Public Health Warning/No on 64	Against	\$3,206,391
	TOTAL	\$23,701,933

Overall, the transportation sector gave more than \$12.4 million to the two committees supporting Proposition 64. Californians to Stop Shakedown Lawsuits received \$7 million, and the California Motor Car Dealers Association committee received \$5.4 million.

Two auto industry contributors gave more than 28 percent of the total given to all three committees. The California Motor Car Dealers Association gave almost \$5.26 million to two committees: \$8,839 to its own committee, the Fund to Stop Shakedown Lawsuits, and the rest to the Chamber-led Californians to Stop Shakedown Lawsuits. The Alliance of Automobile Manufacturers, a Washington, D.C.-based national trade association for automobile and light truck manufacturers,⁹² gave \$1.5 million to Californians to Stop Shakedown Lawsuits.

Other generous contributors to the pro-Proposition 64 campaigns were Intel, which gave \$445,000; Blue Cross of California, which gave \$365,000; the Kaiser Foundation Health Plan, which gave \$287,500; and the California Association of Realtors, which gave \$240,500.

For the campaign against Proposition 64, lawyers were the largest contributing sector, giving more than \$3 million of the \$3.2 million raised by Public Health Warning. The single largest contributor was the Consumer Attorneys of California, giving \$763,700. James Sturdevant, a San Francisco plaintiffs' attorney, gave \$265,000. The only other organization to give more than \$200,000 was the Consumer Attorneys of Los Angeles, contributing \$250,000.

Labor organizations gave more than \$157,000 to the campaign against Proposition 64; the California State Council of Service Employees/SEIU contributed \$100,000 of this total.

⁹² "About the Alliance," *The Alliance of Automobile Manufacturers* [on-line]; available from <http://www.autoalliance.org/about/>; Internet; accessed Feb. 28, 2006.

TOP CONTRIBUTORS TO THE CALIFORNIA LIABILITY MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
California Motor Car Dealers Association	CA	Automotive	Pro	\$5,259,911
Alliance of Automobile Manufacturers	DC	Automotive	Pro	\$1,500,000
Consumer Attorneys	CA	Lawyers & Lobbyists	Con	\$763,700
Greater L.A. New Car Dealers Association	CA	Automotive	Pro	\$500,000
U.S. Chamber of Commerce	DC	Business Association	Pro	\$495,000
Intel	CA/OR	Computer Equipment/Services	Pro	\$445,000
Blue Cross of California	CA	Insurance	Pro	\$365,000
Kaiser Foundation Health Plan	CA	Health Services	Pro	\$287,500
Sturdevant, James	CA	Lawyers & Lobbyists	Con	\$265,000
New Car Dealers Association	CA	Automotive	Pro	\$250,000
Consumer Attorneys Association of L.A.	CA	Lawyers & Lobbyists	Con	\$250,000
			TOTAL	\$10,381,111

Colorado

Amendment 34, the first of several controversial amendments to qualify for Colorado's 2004 ballot, would have repealed a state law enacted in 2003 that limited damages a property owner could receive from construction companies that are found responsible for construction defects. The law also required owners wishing to sue a construction company for shoddy construction to give builders an opportunity to repair the defect before filing the suit. The proposed amendment was filed with the Secretary of State's office only two days after Gov. Bill Owens signed the bill into law in 2003.⁹³

Four committees raised more than \$4.9 million to support or oppose Amendment 34. But only two made the amendment their sole focus: Coloradans for Responsible Reform, which opposed it, and the Committee to Take Back Our Property Rights, which supported it. Coloradans for Responsible Reform raised 81 percent of the money, with \$3.99 million. The Committee to Take Back Our Property Rights raised 15 percent of the total, or more than \$734,000.

After a campaign financed by major home-building interests and law firms, Amendment 34 was defeated at the polls.

CONTRIBUTIONS TO THE COLORADO LIABILITY MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Coloradans for Responsible Reform 2004	Against	\$3,995,502
Committee to Take Back Our Property Rights	For	\$734,469
Realtors Issue Political Action Committee	Against	\$202,837
Builders Supporting Home Ownership-Construction Defects	Against	\$7,850
TOTAL		\$4,940,658

⁹³ Mary Doehrman, "Amendment to House Bill 1161 Sparks Controversy Among Homebuilders," *Colorado Springs Business Journal*, Sept. 10, 2004, p. 1.

The Committee to Take Back Our Property Rights, the group that sponsored and promoted Amendment 34, was essentially run by two law firms: Vanatta, Sullan, Sandgrund & Sullan and McKenzie, Rhody & Hearn. Both firms specialize in construction defect litigation.⁹⁴ These two firms and two lawyers associated with the companies — Scott Sullan and Cass McKenzie — gave \$728,567 of the committee’s \$734,469 total. That accounts for 99 percent of the money given by all lawyers and of the money given to the committee. Essentially, the committee raised only \$6,000 from contributors other than Sullan, McKenzie or their firms.

Coloradans for Responsible Reform received 56 percent of its campaign money, or \$2.2 million, from home-building companies. Another 19 percent, or \$763,600, came from general contractors. Altogether, almost 76 percent of the committee’s cash came from individuals or businesses involved with construction. The largest single contributor to the committee was the National Association of Home Builders, a trade association for home builders. Two large national homebuilding companies that build in Colorado — Beazer Homes of Georgia and Centex Homes of Texas — each gave \$250,000.

The Realtors Issue Political Action Committee of the Colorado Association of Realtors raised \$202,837 to oppose Amendment 34. Realtors and others in the real estate industry gave almost \$29,000. The PAC also collected \$71,350 in unitemized contributions. Another committee opposing the amendment, Builders Supporting Home Ownership-Construction Defects, raised \$7,850.

TOP CONTRIBUTORS TO THE COLORADO LIABILITY MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
National Association of Home Builders	DC	General Contractors	Con	\$450,000
Vanatta Sullan Sandgrund & Sullan	CO	Lawyers & Lobbyists	Pro	\$400,970
McKenzie Rhody & Hearn	CO	Lawyers & Lobbyists	Pro	\$297,138
Beazer Homes	CO/GA	Home Builders	Con	\$250,000
Centex Homes	TX	Home Builders	Con	\$250,000
Oakwood Homes	CO	Home Builders	Con	\$175,000
Lennar Corp.	FL	Home Builders	Con	\$150,000
MDC Holdings, Inc.	CO	Real Estate	Con	\$150,000
Melody Homes, Inc.	CO	Home Builders	Con	\$150,000
U.S. Chamber of Commerce	DC	Business Associations	Con	\$150,000
		TOTAL		\$2,423,108

⁹⁴ Erin Johansen, “Amendment 34 Attracting Little Notice Among Issues,” *Denver Business Journal*, Sept. 17, 2004 [on-line]; available from <http://www.bizjournals.com/denver/stories/2004/09/20/story7.html>; Internet; accessed Jan. 24, 2006.

TAKING ON TOBACCO

by Denise Roth Barber

During the November 2004 elections, voters in three states went to the polls to vote for or against raising state tobacco taxes. In all three states — Colorado, Montana and Oklahoma — they voted decisively in favor of raising the taxes, despite significant opposition and financial backing by the tobacco giants.

The American Cancer Society financially supported the initiatives in all three states, while the American Heart Association and American Lung Association were both active in Colorado and Montana. Meanwhile, Altria, Philip Morris, R.J. Reynolds Tobacco and the U.S. Smokeless Tobacco Co. put their money into the committees opposing the measures, targeting the Oklahoma measure in particular.

Committees supporting the tax increases in all three states raised \$3.5 million, while opponents raised \$2.4 million. Oklahoma’s proposed tax increase garnered the most money, at nearly \$3.3 million, while Montana’s was the least expensive measure of the three, with \$348,800.

The three 2004 ballot measures all raised taxes, but in different ways and for different purposes:

- Oklahoma voters approved a complex measure featuring a 55-cent increase in the tax on cigarettes, with new money going to specific health-care facilities and efforts. The measure also reduced several other types of taxes.
- In Colorado, voters decisively approved a 64-cent hike in the state’s cigarette tax, with the increase in revenues earmarked to fund health-care services and tobacco education and cessation efforts.
- Montana voters approved a measure to increase taxes on a pack of cigarettes by a full dollar, from 70 cents to \$1.70. The state now has one of the highest tobacco taxes in the country.

CONTRIBUTIONS TO TOBACCO TAX INITIATIVES BY STATE, 2004

STATE	CONTRIBUTIONS			VOTES	
	FOR	AGAINST	TOTAL	FOR	AGAINST
Oklahoma	\$1,199,068	\$2,074,664	\$3,273,732	53%	47%
Colorado	\$2,079,179	\$237,394	\$2,316,573	61%	39%
Montana	\$249,800	\$98,997	\$348,797	63%	37%
TOTAL	\$3,528,047	\$2,411,055	\$5,939,102		

Although it was up to the voters to decide the fate of these ballot measures, very few voted with their pocketbooks. Individuals gave about \$381,600 to both pro and con committees in all three states, representing just 6.5 percent of the total raised. Only two individuals gave to committees fighting the tax increases, contributing \$2,327. By comparison, 451 individuals supporting the measures gave about \$379,300.

Seven major donors gave almost half of the money raised in all three states. Four tobacco manufacturers gave \$2.1 million, while three health organizations gave \$828,520. Together, these major donors provided \$2.9 million.

The four tobacco companies concentrated most of their financial efforts in Oklahoma, giving nearly \$1.8 million, or 85 percent of their combined total. In sharp contrast, the three health organizations gave mostly in Colorado, with \$639,700, or 77 percent of their contributions.

MAJOR CONTRIBUTORS ACROSS STATE LINES, 2004

CONTRIBUTOR	OKLAHOMA	COLORADO	MONTANA	TOTAL
Philip Morris	\$1,023,146	\$79,597	\$62,047	\$1,164,790
American Cancer Society	\$55,000	\$403,992	\$73,058	\$532,050
Altria	\$350,000	\$14,060	\$0	\$364,060
R.J. Reynolds Tobacco	\$208,300	\$77,267	\$11,307	\$296,874
U.S. Smokeless Tobacco Co.	\$208,621	\$61,144	\$21,823	\$291,588
American Heart Association	\$0	\$117,688	\$60,010	\$177,697
American Lung Association	\$0	\$118,020	\$754	\$118,774
TOTAL	\$1,845,067	\$871,768	\$228,999	\$2,945,833

OKLAHOMANS BEAT THE TOBACCO INTERESTS

In November 2004, Oklahoma voters narrowly approved State Question 713 despite the fact that opponents outspent supporters by an almost 2-to-1 margin. The ballot measure, put before the voters by the 2004 Legislature's passage of House Bill 2660, was a complex combination of a tobacco tax increase, health-care funding initiative, and revenue-reduction proposal. It passed with 53 percent of the voters in favor.

The primary component of the measure was a repeal of the 25-cent sales tax on cigarettes and other tobacco products, replaced with a new 80-cent excise tax, for a net increase of 55 cents per pack of cigarettes. Taxes on other tobacco products increased, as well. Revenue from the increased tobacco tax goes primarily to various health-related purposes, including construction of a cancer center, enhancement of the state's trauma care, and medical coverage for uninsured citizens.⁹⁵ In addition, 14 percent of the increased revenue was earmarked for state, county and local governments to offset their losses from the tobacco sales tax cut.

The measure also included several tax cuts that were added in the legislative process to garner more support for the tobacco tax increase.⁹⁶ These included reducing the state's maximum individual income tax rate to 6.65 percent, down from 7 percent; increasing the amount of certain retirement benefits not subject to income tax; and exempting certain capital gains from individual income taxes.⁹⁷

⁹⁵ "Gov. Henry Applauds Unanimous Approval of Tobacco Measure," *Office of Governor Brad Henry*, March 24, 2004 [on-line]; available from http://www.gov.ok.gov/display_article.php?article_id=260&article_type=1; Internet; accessed Jan. 23, 2006.

⁹⁶ Carmel Perez Snyder, "State Question 713 on Way to Approval," *The Oklahoman*, Nov. 11, 2003.

⁹⁷ "Oklahoma State Questions for General Election," *Oklahoma State Election Board*, Nov. 2, 2004 [on-line]; available from <http://www.state.ok.us/~elections/sqgen04.pdf>; Internet; accessed Jan. 23, 2006

State Question 713 attracted nearly \$3.3 million in contributions, raised by two committees. Almost two-thirds of the money, or \$2.1 million, was raised by Vote No on State Question 713, a coalition of tobacco manufacturers and others. Citizens for a Healthy Oklahoma, a coalition of health-care and anti-tobacco organizations, raised almost \$1.2 million, yet emerged as the winner nonetheless.

CONTRIBUTIONS TO THE OKLAHOMA TOBACCO TAX MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Vote No on State Question 713	Against	\$2,074,664
Citizens for a Healthy Oklahoma	For	\$1,199,068
	TOTAL	\$3,273,732

Ninety percent of the contributions to the Vote No coalition — \$1.87 million — came from out-of-state contributors, due largely to money from four tobacco giants. Philip Morris stands out in particular, providing slightly more than \$1 million. Altria, the Washington, D.C.-based parent company of Kraft Foods and Philip Morris,⁹⁸ gave \$350,000, while U.S. Smokeless Tobacco Co. and R.J. Reynolds each ponied up just over \$208,000. The Cigar Association of America, based in Washington, D.C., gave an additional \$50,000.

In fact, were it not for a one-time contribution of \$200,000 from Tulsa-based Quiktrip Inc., a nine-state chain of convenience stores and gasoline stations,⁹⁹ the Vote No committee would have raised just \$1,750 from Oklahoma contributors. In stark contrast, all but \$9,000 of the money raised by Citizens for a Healthy Oklahoma came from in-state sources, including \$55,000 from the Oklahoma City office of the American Cancer Society.

TOP CONTRIBUTORS TO THE OKLAHOMA TOBACCO TAX MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Philip Morris	VA	Tobacco Products	Con	\$1,023,146
Altria	DC	Tobacco Products	Con	\$350,000
U.S. Smokeless Tobacco Co.	CT	Tobacco Products	Con	\$208,621
R.J. Reynolds Tobacco	NC	Tobacco Products	Con	\$208,300
Quiktrip, Inc.	OK	Oil & Gas	Con	\$200,000
Lifecare Health Services	OK	Health Services	Pro	\$200,000
Oklahoma Hospital Association	OK	Hospitals	Pro	\$175,000
Tobacco Free Oklahoma Coalition	OK	Ideology/Single Issue	Pro	\$106,611
Integrus Health	OK	Hospitals	Pro	\$90,000
American Cancer Society	OK	Health/Welfare Policy	Pro	\$55,000
		TOTAL		\$2,616,678

While the fate of the ballot measure was in the hands of Oklahoma voters, only 31 individuals actually made contributions. The sole individual contributing to the committee against the tobacco tax increase was Kenneth R. Nance, who had lobbied for tobacco companies,¹⁰⁰ among others.

⁹⁸ "About Altria Overview," *Altria* [on-line]; available from http://www.altria.com/about_altria/1_0_aboutaltriaover.asp; Internet; accessed March 1, 2006.

⁹⁹ *QuikTrip* [on-line]; available from <http://www.quiktrip.com/>; Internet; accessed Feb. 1, 2006.

¹⁰⁰ "State of Oklahoma Lobbyists by Principal:1999-2000," State of Oklahoma [on-line]; available from <http://election.sdrdc.com/ok97/lp9900.html>; Internet; accessed Jan. 26, 2006.

Nance gave \$250 to the Vote No coalition. Thirty people gave a combined total of \$59,400 to Citizens for a Healthy Oklahoma. Most of that money, however — \$50,000 — came from philanthropist Henry B. Zarrow of the Zarrow Foundation. The foundation helps fund “education, social services, Jewish causes, health programs, medical research and mental health programs.”¹⁰¹

COLORADO SAYS “YES” LOUD AND CLEAR

In November 2004, 61 percent of Colorado voters approved a measure to quadruple what had been the lowest tobacco tax in the country.¹⁰² Amendment 35 raised the 20-cent tax on a pack of cigarettes to 84 cents a pack, closer to the national average of 98 cents per pack,¹⁰³ and raised the tax on other tobacco products by 20 percent. The new revenue from the increased tax, estimated at \$175 million per year, funds health-care services and tobacco education and cessation programs.

This was not the first time health advocates attempted to increase the state’s tobacco taxes. In 1994, a small group tried to pass an initiative to raise the tax as a way to fund health-care programs. However, pro-tobacco organizations spent 10 times as much as initiative backers, and the measure failed.¹⁰⁴

In 2004, health advocates expanded their efforts, outreach and cash to win a decisive victory against pro-tobacco interests. Pushing for passage of Amendment 35, Citizens for a Healthier Colorado raised more than \$2 million, almost 9 times more than the \$237,394 raised by the opposing committee, Protect Our Constitution/Vote No On 35.

CONTRIBUTIONS TO THE COLORADO TOBACCO TAX MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Citizens for a Healthier Colorado	For	\$2,079,179
Protect Our Constitution/Vote No on 35	Against	\$237,394
TOTAL		\$2,316,573

Four out-of-state tobacco manufacturers gave slightly more than \$232,000, or 98 percent of the total raised to fight Amendment 35. No individual donor gave to the committee opposing the tax, and just over \$5,000 came from two Colorado contributors — \$4,826 from the Colorado Petroleum Marketers and \$500 from the Colorado Association of Distributors, a trade group for tobacco wholesalers.

¹⁰¹ *The Zarrow Group of Foundations* [on-line]; available from <http://www.zarrow.com>; Internet; accessed Feb. 1, 2006.

¹⁰² Barbara O'Brien and Albert C. Yates, “Amendment 35 — New Dollars for Health Care,” *Denver Business Journal*, Oct. 28, 2004 [newspaper on-line]; available from <http://www.bizjournals.com/denver/stories/2004/10/11/editorial1.html>; Internet; accessed Jan. 20, 2006.

¹⁰³ “Analysis of the 2004 Ballot Proposals,” *State of Colorado Blue Book*, Sept. 8, 2004 [on-line]; available from http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2004/ballot/2004BluebookforInternet.PDF; Internet; accessed Jan. 20, 2006.

¹⁰⁴ “Form a 501(c)(4) Organization to Open Advocacy Doors,” *Voices for America’s Children* [on-line]; available from http://www.voices.org/Template.cfm?Section=Great_Ideas&CONTENTID=5585&TEMPLATE=/ContentManagement/ContentDisplay.cfm; Internet; accessed Jan. 24, 2006.

Six health-care providers or interest groups gave two-thirds of the money in support, thanks largely to contributions from the Colorado Health and Hospital Association and the American Cancer Society. Supporters outside of Colorado also gave about \$568,700, or 27 percent of the total raised by proponents. Most of that money came from the Oklahoma office of the American Cancer Society, which gave just under \$400,000 and the Tobacco-Free Kids Action Fund, which gave \$100,000. The action fund is affiliated with the Campaign for Tobacco-Free Kids¹⁰⁵ in Washington, D.C. Other out-of-state contributors included the American Heart Association's Texas office, with \$35,000, and Anthem Blue Cross Blue Shield of Ohio, \$25,000.

TOP CONTRIBUTORS TO THE COLORADO TOBACCO TAX MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
American Cancer Society	CO/OK	Health/Welfare Policy	Pro	\$403,992
Colorado Health and Hospital Association	CO	Hospitals/Nursing Homes	Pro	\$372,720
Colorado Community Health Network	CO	Health Services	Pro	\$263,373
American Lung Association	CO	Health/Welfare Policy	Pro	\$118,020
American Heart Association	CO/TX	Health/Welfare Policy	Pro	\$117,688
Bridges, Rutt	CO	Liberal Policy	Pro	\$105,000
Tobacco-Free Kids Action Fund	DC	Health/Welfare Policy	Pro	\$100,000
Stryker, Pat	CO	Liberal Policy	Pro	\$100,000
Philip Morris	VA	Tobacco Products	Con	\$79,597
R.J. Reynolds Tobacco	NC	Tobacco Products	Con	\$77,267
			TOTAL	\$1,737,657

While no individuals gave to oppose the tax increase, 374 individuals gave money to the committee supporting it, for a combined total of more than \$315,000. Two individuals in particular dug deep, each giving \$100,000 or more to Citizens for a Healthier Colorado—accounting for nearly 10 percent of that committee's funds:

- Rutt Bridges, chief executive officer of the Bighorn Center for Public Policy in Denver, gave \$105,000. The Bighorn Center is a progressive think tank founded in 1999 to “give Colorado's political middle a credible and legitimate voice in the state's increasingly polarized landscape and more importantly, to get things done.”¹⁰⁶
- Pat Stryker, heir to a medical supply company founded by her grandfather and president of the Bohemian Foundation, gave \$100,000. The Bohemian Foundation, based in Fort Collins, provides grants to nonprofit organizations for youth, the environment and the arts.¹⁰⁷

¹⁰⁵ “About the Tobacco-Free Kids Action Fund,” *Tobacco-Free Kids Action Fund* [on-line]; available from <http://tobaccofreeaction.org/about/>; accessed Jan. 24, 2006.

¹⁰⁶ “About the Bighorn Center,” *Bighorn Center*, [on-line]; available from <http://www.bighorncenter.org/>; accessed Feb. 10, 2006.

¹⁰⁷ Rebecca Jones, “31 Has Worthy Foe: Mom in a Minivan,” *Rocky Mountain News*, Oct. 12, 2002 [newspaper on-line]; available from http://azbilingualed.org/AABE%20Site/Bilingual%20Education%20in%20the%20News_files/31_has_worthy_foe.htm; accessed Feb. 10, 2006.

Both Stryker and Bridges have been active in Colorado politics in recent years. In 2002, Stryker gave more than \$3 million of her own money to help defeat a ballot measure to limit bilingual education. And her independent expenditures and direct contributions to legislative candidates in 2004 were widely believed to have helped the Democrats regain control of the state legislature.¹⁰⁸

Bridges, meanwhile, also was instrumental in helping the Democrats take control of the state legislature in 2004 by giving almost \$18,000 to 71 legislative candidates and an additional \$2,500 to the Colorado Democratic Party, according to reports filed with the state. In addition to funding media ads,¹⁰⁹ Bridges also gave slightly more than \$14,000 to Democratic state candidates and party committees in five other states: Delaware, Kansas, Missouri, New Mexico and Washington.

MONTANA RAISES THE TAX ON TOBACCO

Montana’s 2004 tobacco tax measure, Initiative 149, was approved by a decisive 63 percent of Montana voters. The measure increased taxes on a pack of cigarettes from 70 cents to \$1.70; increased the tax on chewing tobacco from 35 cents to 85 cents per ounce; and raised the tax on other tobacco products from 25 percent to 50 percent of the wholesale price. Montana now has one of the highest tobacco taxes in the country.¹¹⁰ Businesses and special interests, not Montana residents, provided the lion’s share of the money raised on I-149, giving \$341,740, or 98 percent of the total. Twenty-four businesses and organizations gave in favor of the tax increase, compared to six giving to the committee opposing the ballot measure.

The Healthy Kids/Healthy Montana committee proposed the initiative, gathered signatures and raised almost \$250,000 to support the measure. The committee was a broad coalition of state and national health, insurance, physician and hospital groups, including the American Cancer Society, the American Lung Association of the Northern Rockies and the American Heart Association.¹¹¹ The group raised more than double the \$99,000 raised by the opposing committee, Veterans, Taxpayers, Montanans, and Tobacco Retailers, Wholesalers and Manufacturers.

CONTRIBUTIONS TO THE MONTANA TOBACCO TAX MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Healthy Kids/Healthy Montana	For	\$249,800
Veterans, Taxpayers, Montanans and Tobacco Retailers, Wholesalers and Manufacturers	Against	\$98,997
	TOTAL	\$348,797

¹⁰⁸ Burt Hubbard and Tilly Fong, “\$17 Million for Ads,” *Rocky Mountain News*, Nov. 6, 2004 [newspaper on-line]; available from http://72.14.207.104/search?q=cache:4aFg7zE3_poJ:www.rockymountainnews.com/drmn/election/article/0,1299,DRMN_36_3309406,00.html+%22PAT+STRYKER%22+%26+2004+ELECTIONS%22&hl=en&gl=us&ct=clnk&cd=6&ie=UTF-8; accessed Feb. 21, 2006.

¹⁰⁹ Ibid.

¹¹⁰ “Montana Behind the Scenes,” *American Lung Association of Northern Rockies* [on-line]; available from http://lungaction.org/reports/state-narrative04.tcl?geo_area_id=30; Internet; accessed Jan. 16, 2005.

¹¹¹ “Initiative Proposed to Raise Tobacco Tax,” *Healthy Kids, Healthy Montana*, March 11, 2004 [on-line]; available from <http://72.14.207.104/search?q=cache:kHcY3m73DFcJ:www.co.lewis-clark.mt.us/health/prevention/assets/Tobacco%2520Tax%2520News%2520Release.pdf+%22Healthy+Kids+Healthy+Montana%22&hl=en&gl=us&ct=clnk&cd=2&ie=UTF-8>; Internet; accessed Feb. 21, 2006.

Although listed last in the committee’s name, tobacco manufacturers actually provided all but 3 percent of the money raised to oppose the initiative, giving about \$96,300 through in-kind financial support.

Two groups involved in health-care issues gave just over half of the money raised by the proponents. The American Cancer Society gave about \$73,000, or 29 percent of the total, and the American Heart Association gave \$60,000, or 24 percent of the total.

Forty-five percent of the money raised to support or oppose I-149 came from out-of-state interests. Proponents raised about \$60,000 from outside the state, all from the American Heart Association. Opponents raised about \$96,000, all from four major tobacco manufacturers — Philip Morris, U.S. Smokeless Tobacco Co., R.J. Reynolds Tobacco and Lorillard Tobacco.

TOP CONTRIBUTORS TO THE MONTANA TOBACCO TAX MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
American Cancer Society	MT	Health/Welfare Policy	Pro	\$73,058
Philip Morris	CA	Tobacco Products	Con	\$62,047
American Heart Association	WA	Health/Welfare Policy	Pro	\$60,010
AARP	MT	Elderly/Social Security	Pro	\$56,297
Montana Hospital Association	MT	Hospitals/Nursing Homes	Pro	\$29,094
U.S. Smokeless Tobacco Co.	CT	Tobacco Products	Con	\$21,823
R.J. Reynolds Tobacco	NC	Tobacco Products	Con	\$11,307
Montana Medical Association	MT	Health Professionals	Pro	\$7,155
Blue Cross Blue Shield of Montana	MT	Insurance	Pro	\$5,635
New West Health Services	MT	Insurance	Pro	\$2,714
			TOTAL	\$329,140

Although almost half a million Montanans voted on I-149, only 50 Montanans ponied up any money for the ballot fight itself. Forty-nine individuals gave a combined total of \$4,350 to support the tax increase, while just one individual — attorney/lobbyist Mark Baker of Helena — gave \$2,077, all through in-kind contributions, to oppose the measure. Baker lobbied for the U.S. Smokeless Tobacco Co. in 2002 and 2004, among other clients, according to reports filed with the Montana Commissioner of Political Practices.¹¹²

¹¹² Phone conversation with Sarah Ayres, Montana Commissioner of Political Practices office, Feb.1, 2006.

TAKING AIM AT HUNTING AND FISHING

by Denise Roth Barber

In 2003 and 2004, voters in five states expressed their support for hunting by approving ballot measures to protect hunting rights or rejecting measures to limit certain forms of hunting. Measures to ban bear baiting were defeated in Alaska and Maine, while measures in Louisiana, Montana and Wisconsin established constitutional rights to hunt, trap and fish.

The hunting measures on the ballot in five states were:

- Question 2 in Maine, where voters defeated a proposal in 2004 to prohibit the hunting of bears with bait, traps or dogs.
- Measure 3 in Alaska, an unsuccessful 2004 initiative that would have made it illegal to bait or intentionally feed a bear for purposes of hunting, viewing or photographing the bear.
- A Wisconsin referendum to change the state's constitution to ensure the right to hunt, fish and trap. Without any organized opposition,¹¹³ the measure passed with 82 percent of the vote in the spring 2003 election.
- Constitutional Amendment 41 in Montana, where voters resoundingly approved a constitutional amendment to protect the opportunity of Montana citizens to hunt and fish.
- Amendment 1 in Louisiana's November 2004 election. This proposal to ensure the right of every citizen to hunt, fish, and trap passed with 81 percent of the vote.

CONTRIBUTIONS TO HUNTING INITIATIVES BY STATE, 2003 AND 2004

STATE	CONTRIBUTIONS			VOTES	
	FOR	AGAINST	TOTAL	% FOR	% AGAINST
Maine	\$1,038,067	\$1,716,840	\$2,754,907	47%	53%
Alaska	\$109,926	\$527,435	\$637,361	43%	57%
Wisconsin	\$21,440	\$0	\$21,440	82%	18%
Montana	\$199	\$0	\$199	81%	19%
Louisiana	N/A	N/A	N/A	81%	19%
TOTAL	\$1,169,632	\$2,244,275	\$3,413,907		

Because the measures in Louisiana, Montana and Wisconsin raised little to no money and faced little to no opposition, this report analyzes in detail only the contributions raised to support or oppose the bear-baiting ballot measures in Maine and Alaska.

¹¹³ Meg Jones, "The Right to Hunt, Fish, Trap," *Milwaukee Journal Sentinel*, April 2, 2003 [newspaper on-line]; available from <http://www.jsonline.com/news/state/apr03/130370.asp?format=print>; Internet; accessed Feb. 17, 2006.

Committees opposing the measures in these two states raised \$2.24 million, while those in favor raised about \$1.15 million. Maine’s bear-baiting measure attracted \$2.7 million, while Alaska’s measure raised considerably less, just under \$640,000.

Pro-hunting interests gave \$1.18 million to defeat the two measures, while animal-rights interests gave \$937,400 in efforts to pass them. Combined, contributions from these two groups accounted for almost two-thirds of the total raised on both measures.

Although they could not mark the ballots in Maine and Alaska, out-of-state interests did vote with their pocketbooks, providing just over half of the money raised on both measures. Out-of-state supporters gave about \$933,850, while opponents gave about \$812,700.

Four major out-of-state contributors gave more than \$1 million to the measures in both states, accounting for one-third of the total raised. Three of the four gave to help defeat the measure: the Ballot Issues Coalition, a Virginia-based pro-hunting coalition that “assists state sportsmen campaigns to counterattack anti-trapping and anti-hunting initiatives;”¹¹⁴ various chapters of the Safari Club International (SCI), a pro-hunting organization; and the Ohio-based U.S. Sportsmen’s Alliance, another pro-hunting organization. Combined, these three groups gave \$627,460, just 20 percent more than the \$509,350 given by the Humane Society of the United States, a national animal-rights organization that backed the two anti-bear baiting measures.

MAJOR CONTRIBUTORS ACROSS STATE LINES, 2004

CONTRIBUTOR	ALASKA	MAINE	TOTAL
Humane Society of the United States	\$25,000	\$484,349	\$509,349
Ballot Issues Coalition/BIC	\$152,250	\$87,250	\$239,500
Safari Club International/SCI*	\$180,250	\$51,710	\$231,960
U.S. Sportsmen’s Alliance	\$50,000	\$106,000	\$156,000
TOTAL	\$407,500	\$729,309	\$1,136,809

* Includes contributions from SCI’s chapters.

MAINE’S BEAR-BAITING MEASURE

In November 2004, Maine voters rejected by a slim 6 percent margin Question 2, a measure to ban the hunting of bears with traps, bait and hounds, despite a record-breaking signature-gathering drive led by the Maine Citizens for Fair Bear Hunting to get the initiative on the ballot.¹¹⁵ This committee also served as the primary committee campaigning in favor of the measure once it was put on the ballot.

To defeat Question 2, Maine’s Fish and Wildlife Conservation Council committee — spearheaded primarily by the Sportsman’s Alliance of Maine (SAM), the Maine Professional Guides

¹¹⁴ “NRA-ILA Facts,” *National Rifle Association* [on-line]; available from <http://nraila.com/issues/FactSheets/Read.aspx?ID=124>; Internet; accessed Feb. 17, 2006.

¹¹⁵ Jennifer L. Saunders, “Question Seeks to Ban Some Bear-hunting Methods,” *Seacoast Newspapers*, Oct. 13, 2004 [newspaper on-line]; available from <http://www.exeternewsletter.com/2004news/yorkweekly/10132004/news/42757.htm>; Internet; accessed Feb. 24, 2006.

Association and the Maine Trappers Association¹¹⁶ — raised \$1.6 million. In addition, SAM raised slightly more than \$110,000.¹¹⁷

Supporters of the measure raised about \$1 million, about 60 percent of the \$1.7 million raised by the opponents. Maine Citizens for Fair Bear Hunting, backed primarily by the Maine Friends of Animals and the Humane Society of the United States,¹¹⁸ raised slightly more than \$1 million. Hunters for Fair Bear Hunting, a group of several hundred sportsmen and guides,¹¹⁹ raised an additional \$13,000.

CONTRIBUTIONS TO MAINE’S HUNTING MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Maine’s Fish and Wildlife Conservation Council	Against	\$1,605,060
Maine Citizens for Fair Bear Hunting	For	\$1,025,274
Sportsman’s Alliance of Maine/SAM	Against	\$111,780
Hunters for Fair Bear Hunting	For	\$12,793
	TOTAL	\$2,754,907

Out-of-state donors weighed in heavily on the matter, providing \$1.45 million in contributions, more than half of all the money raised. Supporters received \$905,600 from out-of-state donors, primarily from two national animal-rights organizations — the Humane Society and The Fund for Animals. In comparison, the opponents raised about \$543,000 from out-of-state contributors, or 32 percent of their total funds.

However, the source of \$325,200 is virtually unknown, as the donations fell under the state’s \$50 threshold for reporting the names and other identifying information about contributors. Opponents raised \$276,700 in unitemized donations, 16 percent of their funds, while supporters raised almost \$48,500, or 5 percent of their total.

The two largest donors — the Humane Society of the United States and The Fund for Animals, both national animal-rights organizations — gave a combined total of about \$870,000, or nearly one-third of all the money raised on the measure. Two national pro-hunting organizations — the Ballot Issues Coalition and the U.S. Sportsmen’s Alliance — topped the list of contributors opposed to the measure. In addition, when contributions from the various chapters of the Safari Club International (SCI) are combined, SCI rises closer to the top, with \$51,710. SCI’s Arizona headquarters gave \$26,950, while chapters in Maine gave \$5,560. Other chapters in Florida, Idaho,

¹¹⁶ “Maine’s Bear Hunting Referendum,” *Sportsman’s Alliance of Maine* [on-line]; available from <http://www.samcef.org/BEAR%20REFERENDUM%20INFORMATION.htm>; Internet; accessed Feb. 20, 2006.

¹¹⁷ Because the money raised by the Sportsman’s Alliance of Maine is similar in amount to what it gave Maine’s Fish and Wildlife Conservation Council (\$71,919), it is possible that some money is in the disclosure reports twice, once as received by SAM and again as given to the Council.

¹¹⁸ “Bear Hunting Referendum,” *Maine Department of Inland Fisheries & Wildlife*, Dec. 16, 2003 [on-line]; available from <http://mainegov-images.informe.org/ifw/pdf/bearposition.pdf>; Internet; accessed Feb. 20, 2006.

¹¹⁹ “Voting ‘Yes’ on the Bear Referendum Is the Best Way to Preserve Hunting in Maine,” *Hunters For Fair Bear Hunting* [on-line]; available from <http://72.14.207.104/search?q=cache:rFNQx9mKONoJ:www.huntersforfairbearhunting.org/pages/4/index.htm+%22Hunters+For+Fair+Bear+Hunting%22&hl=en&gl=us&ct=clnk&cd=2&ie=UTF-8>; Internet; accessed Feb. 20, 2006.

Michigan, Nebraska, New Hampshire, New York, Ohio and Wisconsin pitched in a total of \$19,650.

MAJOR CONTRIBUTORS TO MAINE’S HUNTING MEASURE, 2004

CONTRIBUTOR	STATE	PRO/CON	TOTAL
Humane Society of the United States	DC	Pro	\$484,349
The Fund for Animals	NY	Pro	\$385,000
U.S. Sportsmen’s Alliance	OH	Con	\$106,000
Ballot Issues Coalition/BIC	VA	Con	\$87,250
Sportsman’s Alliance of Maine/SAM	ME	Con	\$71,919
Maine Trappers Association	ME	Con	\$65,130
Maine Professional Guides Association	ME	Con	\$59,998
Plum Creek Timber Company	WA	Con	\$31,095
Katahdin Cedar Log Homes	ME	Con	\$28,000
Safari Club International/SCI	AZ	Con	\$26,950
TOTAL			\$1,345,691

In the end, opponents of the measure to ban bear baiting in Maine outraised the proponents by 39 percent, but only narrowly defeated the measure with a slim 6 percent margin.

ALASKA’S BEAR-BAITING MEASURE

In November 2004, Alaskan voters shot down a measure that would have made it illegal for a person to bait or intentionally feed a bear for purposes of hunting, viewing or photographing it.

Measure 3 was supported by Citizens United Against Bear-Baiting, an organization comprised of sport hunters, guides, photographers, biologists and others.¹²⁰ Initiative sponsors gathered the signatures needed to put the initiative on the ballot because the Alaska Board of Game, the agency in charge of the state’s game management, had refused to ban the practice.¹²¹

Citizens United Against Bear-Baiting raised about one-fifth of the amount collected by the main committee opposing the initiative, Alaskans for Professional Wildlife Management, or APWM, a statewide coalition made up primarily of hunting and sportsmen’s groups.¹²²

¹²⁰ Paul Joslin, “Will the Opposition Get Out From Behind Their Lies and Face Us in Debate,” *Citizens United Against Bear Hunting*, Oct. 12, 2004 [on-line]; available from http://www.shewolfworks.com/wolfsong/news/Alaska_current_events_898.htm; Internet; accessed Feb. 21, 2006.

¹²¹ Joel Gay, “Alaska Voters Reject Proposal to Ban Bear Baiting,” *Anchorage Daily News*, Nov. 3, 2004 [newspaper on-line]; available from <http://www.adn.com/election04/story/5741150p-5675026c.html>; Internet; accessed Feb. 24, 2006.

¹²² “Who We Are,” *Alaskans For Professional Wildlife Management* [on-line]; available from <http://www.supportwildlife.com/cgi-bin/display.cgi?page=whoweare>; Internet; accessed Feb. 21, 2006.

CONTRIBUTIONS TO ALASKA'S HUNTING MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Alaskans for Professional Wildlife Management/APWM	Against	\$516,930
Scientific Management of Alaska's Resource Treasures/SMART	Against	\$10,505 ¹²³
Citizens United Against Bear Baiting/CUBB	For	\$109,926
	TOTAL	\$637,361

Not surprisingly, pro-hunting organizations gave 90 percent of the money raised to fight the measure, or \$473,460. Likewise, pro-environmental and animal-rights organizations provided 96 percent of the money raised in support, or nearly \$106,000.

Out-of-state donors voiced their position loud and clear with their pocketbooks, pitching in \$297,200, almost half of all the money raised. Most of that money, or \$269,000, went to defeat the measure, providing half of the total raised by the opponents. Out-of-state donors in support of the measure gave \$28,210, or one-fourth of the money raised by supporters.

The single largest contributor was the Virginia-based Ballot Issues Coalition, which gave more than \$150,000 in opposition to the bear-baiting ban. Various chapters of the Safari Club International (SCI) gave a combined total of \$180,250. Most of SCI's money — \$141,500 — came from the Alaska chapter, while the Arizona headquarters gave \$25,000. The remaining \$8,750 came from chapters in California, Florida, Kentucky, Nebraska, New Mexico, Texas and Washington, D.C.

MAJOR CONTRIBUTORS TO ALASKA'S HUNTING MEASURE, 2004

CONTRIBUTOR	STATE	PRO/CON	TOTAL
Ballot Issues Coalition/BIC	VA	Con	\$152,250
Safari Club International Alaska Chapter	AK	Con	\$141,500
U.S. Sportsmen's Alliance	OH	Con	\$50,000
Alaska Wildlife Alliance	AK	Pro	\$41,478
Safari Club International/SCI	AZ	Con	\$25,000
Humane Society of the United States	DC	Pro	\$25,000
National Parks Conservation Association	DC	Pro	\$25,000
Alaska Bowhunters Association	AK	Con	\$23,100
Alaska Outdoor Council/AOC	AK	Con	\$22,000
Alaska Conservation Foundation	AK	Pro	\$11,500
	TOTAL		\$516,828

The Alaska Wildlife Alliance was the largest contributor in favor of the measure, with about \$41,500. The national Humane Society and the National Parks Conservation Association each gave \$25,000.

Overall, opponents of Measure 3 outraised proponents by an almost 5-to-1 margin, and their investment paid off, earning them a wide 14 percent margin of victory at the polls.

¹²³ Because the money raised by the Scientific Management of Alaska's Resource Treasures committee is similar to the amount it gave to the Alaskans for Professional Wildlife Management/APWM, it is possible that some money is in the disclosure reports twice, once as received by SMART and again as given to APWM.

OUT OF TIME: TERM LIMIT EXTENSIONS FAIL

by Mark Dixon

In the 2004 elections, voters in Arkansas and Montana faced constitutional amendments that sought to extend existing term limits. In Arkansas, Constitutional Amendment 1 would have extended limits from six years to 12 years for state representatives and from eight years to 12 years for state senators. In Montana, Constitutional Amendment 42 sought to extend the amount of time legislators could serve from eight years in any 16-year period to 12 years in any 24-year period. In each case, the initiatives were defeated by a wide margin of the voters.

Opponents of the measures raised \$1.2 million. Proponents in Arkansas raised \$417,105, and no committee formed to support the extension in Montana.

CONTRIBUTIONS TO TERM LIMIT INITIATIVES BY STATE, 2004

STATE	CONTRIBUTIONS			VOTES	
	FOR	AGAINST	TOTAL	% FOR	% AGAINST
Arkansas	\$417,105	\$1,114,355	\$1,531,460	30%	70%
Montana	\$0	\$88,279	\$88,279	31%	69%
TOTAL	\$417,105	\$1,202,634	\$1,619,739		

A prominent opponent to both of these initiatives was Paul Jacob. Jacob is connected to three organizations, active across the nation, that gave the largest amounts in 2004 to fight any lengthening of terms for legislators in Arkansas and Montana. Jacob helped launch a national push for term limits for state legislators that started in California in the early 1990s and spread to other states with citizen initiatives. He is currently president of a national pro-initiative group called Citizens in Charge.¹²⁴ Jacob was also the founder and past president of another national organization, U.S. Term Limits, that supports term limit efforts across the country.¹²⁵ Jacob serves as a senior fellow at Americans for Limited Government, another conservative organization.

All told, these three groups gave \$1.17 million to committees that opposed the extension of term limits in Arkansas and Montana.

In Arkansas, two committees formed to fight Amendment 1. Paul Jacob set up one committee and was listed as its president; his brother, Tim Jacob, was listed as president for the other committee opposing the measure. Together, the two committees raised \$1.1 million. And 97 percent of that money came from the three groups, mentioned above, associated with Paul Jacob.

In Montana, only one committee formed to oppose the extension of term limits there. It received 94 percent of its money from two groups associated with Paul Jacob.

Two large contributors out of Illinois gave money in both states. Americans for Limited Government gave \$166,668 and U.S. Term Limits gave \$239,744. Both organizations had the

¹²⁴ Joni James, "Any Push to Amend May Face New Rules," *St. Petersburg Times*, March 24, 2004, sec. A, p. 1.

¹²⁵ *Ibid.*

same address in Glenview, Ill., during the 2004 elections. The two groups are separate entities, but share office space and sometimes staff. In addition, Paul Jacob currently serves as a senior fellow for both organizations.¹²⁶ In 2004, Jacob, then serving as president of U.S. Term Limits, was actively involved in fighting any weakening of term limits in Arkansas and Montana.¹²⁷

U.S. Term Limits, founded in 1992, describes its mission as “to rally Americans to restore citizen control of government by limiting the terms of politicians at the local, state and congressional levels” and claims to have been “a leading force in the limited government movement.”¹²⁸

Americans for Limited Government describes itself as a group that “promotes individual liberty, free markets, and the principles of the U.S. Constitution.”¹²⁹ In 2006, the group is planning to participate in ballot measures in several states, including spending-cap proposals in Montana, Nevada and Oklahoma. The organization says it works with local groups and uses the initiative process to bring about policy changes and is focusing this year on efforts “to protect property rights, stop out-of-control government spending, and hold judges accountable to the rule of law.”¹³⁰

MAJOR CONTRIBUTORS ACROSS STATE LINES, 2004

CONTRIBUTOR	ARKANSAS	MONTANA	TOTAL
U.S. Term Limits	\$175,000	\$64,744	\$239,744
Americans for Limited Government	\$148,507	\$18,161	\$166,668
TOTAL	\$323,507	\$82,905	\$406,412

The Citizens in Charge Foundation of Woodbridge, Va., a Washington, D.C. suburb, gave the largest total amount, \$763,800, in its effort to defeat the extension of term limits in Arkansas. In his capacity as president of Citizens in Charge, Paul Jacob told the *Sarasota Herald Tribune* in 2005 that voters have proven they want term limits and pointed to the defeat of the Arkansas and Montana measures in 2004 as a reaffirmation of the desire for limits.¹³¹

ARKANSAS

Constitutional Amendment 1, placed on the Arkansas ballot by legislative referendum, failed by a wide margin, with just 30 percent of voters in favor. The amendment would have extended the term limits for members of the Arkansas House of Representatives from three 2-year terms to six

¹²⁶ E-mail from Heather Wilhelm, Director of Communications, Americans for Limited Government, Feb. 24, 2006.

¹²⁷ Jeremy Wallace, “Group to Fight for Term Limits,” *Sarasota Herald Tribune*, Jan. 21, 2005, p. 1.

¹²⁸ *U.S. Term Limits* [on-line]; available from <http://www.termlimits.org/About/about.html>; Internet; accessed Feb. 14, 2005.

¹²⁹ *Americans for Limited Government* [on-line]; available from <http://www.getliberty.org/sites/lg/default.aspx>; Internet; accessed Feb. 14, 2006.

¹³⁰ “What We Do,” *Americans for Limited Government* [on-line]; available from <http://www.getliberty.org/sites/lg/aboutus/contact.html>; Internet; accessed Feb. 14, 2006.

¹³¹ Jeremy Wallace, “Group to Fight For Term Limits,” *Sarasota Herald Tribune*, Jan. 21, 2005, p. 1.

2-year terms and the limits for senators from two 4-year terms to three 4-year terms.¹³² Term limits were passed in Arkansas in 1992 by a 60-40 vote.

CONTRIBUTIONS TO THE ARKANSAS TERM LIMIT MEASURE, 2004

COMMITTEE	POSITION	TOTAL
Citizens in Charge	Against	\$620,134
Save Term Limits	Against	\$494,221
Arkansans for Term Limits that Work	For	\$408,555
Arkansans for Voter Rights	For	\$8,550
	TOTAL	\$1,531,460

Opponents of Amendment 1 outraised proponents by a margin of more than 2-to-1. The two committees formed in opposition to Amendment 1, Save Term Limits and Citizens in Charge, raised a combined \$1.1 million. The committees organized in favor of Amendment 1, Arkansans for Term Limits that Work and Arkansans for Voter Rights, together raised about \$417,100.

The Citizens in Charge Foundation of Woodbridge, Va., gave \$763,800 to fight the proposal: \$289,634 to the Citizens in Charge committee and \$474,175 to the Save Term Limits committee. Paul Jacob, president of the foundation, was president of the Citizens in Charge ballot committee formed in Arkansas to oppose Amendment 1. In the statement of organization filed with the Arkansas Ethics Commission on behalf of the committee, Jacob wrote, "Citizens in Charge is involved in lobbying for the passage or defeat of numerous measures throughout the U.S. In Arkansas, we support the campaign by Save Term Limits to defeat Amendment 1 on the 2004 ballot. Beyond weakening the term limits law passed by voters through the citizen initiative process, the misleading nature of the legislature's ballot title threatens the very process of citizen initiative itself. That is why we oppose Amendment 1."

Paul Jacob, founder of U.S. Term Limits, helped to launch a multi-state effort in the early 1990s to implement term limits via the initiative process. In 2004, Jacob was president of the Citizens in Charge Foundation. The national organization, based in a Washington, D.C. suburb, supports the initiative process.¹³³

According to its Web site, Citizens in Charge "works with activists, legislators, media, opinion leaders and voters to protect the initiative and referendum process where it exists in 24 states and to expand the process to the 26 states where voters currently lack the initiative. Citizens in Charge Foundation works to educate the public on the benefits of citizen initiative, referendum and recall and also litigates to protect and expand those rights."¹³⁴

¹³² "Arkansas Election Profile – State Vote 2004," *National Conference of State Legislatures*, Nov. 17, 2004 [on-line]; available from <http://www.ncsl.org/ncsl/db/elect98/profile.cfm?years=2004&states=AR>; Internet; accessed Feb. 10, 2006.

¹³³ Joni James, "Any Push to Amend May Face New Rules," *St. Petersburg Times*, March 24, 2004, sec. A, p. 1.

¹³⁴ "What We Do," *Citizens in Charge* [on-line]; available from <http://www.citizensincharge.org/main/whoweare.php>; Internet; accessed Feb. 17, 2006.

The Save Term Limits committee fighting Amendment 1 was set up and chaired by Tim Jacob, the brother of Paul Jacob.¹³⁵ Not only is Paul Jacob president of the Citizens in Charge Foundation, he also is the former president of U.S. Term Limits and is currently a senior fellow at Americans for Limited Government and U.S. Term Limits. Those three contributing organizations gave 97 percent of the money that was raised by the two ballot committees formed to fight the term limits extension in Arkansas.

Americans for Limited Government and U.S. Term Limits gave a combined \$322,000 to Citizens in Charge and \$1,507 to the Save Term Limits committee. The National Taxpayers Union, which supports “limited government and low taxes,”¹³⁶ gave \$10,000 to Citizens in Charge.

TOP CONTRIBUTORS TO THE ARKANSAS TERM LIMIT MEASURE, 2004

CONTRIBUTOR	STATE	INDUSTRY	PRO/CON	TOTAL
Citizens in Charge Foundation	VA	Single Issue	Con	\$763,809
U.S. Term Limits	IL	Term Limits	Con	\$175,000
Americans for Limited Government	IL	Term Limits	Con	\$148,507
Arkansas Farm Bureau	AR	Farm Bureau	Pro	\$105,841
Arkansas State Chamber of Commerce	AR	Business Association	Pro	\$31,710
Arkansas Outdoor Advertising Association	AR	Business Services	Pro	\$30,000
Arkansas Realtors Association/ARPAC	AR	Real Estate	Pro	\$25,000
Entergy/ENPAC Arkansas	MS/LA	Electric Utilities	Pro	\$25,000
Stephens Group	AR	Securities & Investment	Pro	\$15,000
Arkansas Education Association/ACCPE	AR	Public Sector Unions	Pro	\$12,500
National Education Association/NEA	DC	Public Sector Unions	Pro	\$12,500
Alltel Corp.	AR	Telecom Services/Equipment	Pro	\$10,000
Arkansas Bar Association	AR	Lawyers & Lobbyists	Pro	\$10,000
National Taxpayers Union	VA	Conservative Policy	Con	\$10,000
Arkansas Hospital Association	AR	Hospitals & Nursing Homes	Pro	\$10,000
Arkansas Telecommunications Association	AR	Telecom Services/Equipment	Pro	\$10,000
Tyson Foods	AR	Food Processing & Sales	Pro	\$10,000
University of Arkansas Foundation	AR	Education	Pro	\$10,000
TOTAL				\$1,414,867

The main proponents of the amendment were Arkansas business and industry organizations, which contended that — under the existing term limits — legislators had to leave office just as they were learning about the issues before them. They argued that the short length of the existing term limits puts lawmakers out of office just when they have gained the experience they need to be effective legislators.¹³⁷ Those supporting the extension of limits included professional trade organizations that included labor, business, health care and agriculture.¹³⁸

¹³⁵ Rob Moritz, “Supporters of Term Limits Proposal to Cry Foul,” *Arkansas News Bureau*, Oct. 28, 2004 [newspaper on-line]; available from <http://www.arkansasnews.com/archive/2004/10/28/News/307174.html>; Internet; accessed March 7, 2006.

¹³⁶ “Our Mission,” *National Taxpayers Union* [on-line]; available from <http://www.ntu.org/main/misc.php?MiscID=3>; Internet; accessed Feb. 17, 2006.

¹³⁷ David Robinson, “Term Limits Proposal Gains Ground,” *Arkansas News Bureau*, Oct. 12, 2004 [newspaper on-line]; available from <http://www.arkansasnews.com/archive/2004/10/12/News/300564.html>; Internet; accessed March 7, 2006.

¹³⁸ *Ibid.*

The largest contributors in favor of Amendment 1 were the Arkansas Farm Bureau, \$105,841, followed by the Arkansas State Chamber of Commerce, which gave \$31,710.

MONTANA

In 2004, voters in Montana voted on Constitutional Amendment 42. The measure was put on the ballot by the 2003 Legislature and would have amended the state constitution to extend term limits for state legislators from eight years in any 16-year period to 12 years in a 24-year period. This would have lengthened the term limits Montana citizens established in 1992 by constitutional initiative. Proponents of the measure wanted to extend the limits to “restore more experience to the Legislature without abolishing limits altogether.”¹³⁹

CA-42 failed with only 31 percent of Montanans voting in favor. No committees formed to support the extension of term limits

CONTRIBUTIONS TO THE MONTANA TERM LIMIT MEASURE, 2004

COMMITTEE	POSITION	TOTAL
No on 42/Keep Montana’s 8-Year Term Limits	Against	\$88,279
TOTAL		\$88,279

Most of the money to fight the proposal came from Americans for Limited Government and U.S. Term Limits, which gave a combined total of \$82,905.

Trevis M. Butcher, a rancher from Winifred, Mont., worked with U.S. Term Limits to defeat CA-42. Butcher organized the opposition to the amendment, serving as coordinator of No on 42/Keep Montana’s 8-Year Term Limits.¹⁴⁰

The ballot committee spent money on radio ads criticizing three candidates in contested Republican primaries in 2004, contending they wanted to do away with the state’s term limits.¹⁴¹ One of the ads targeted the candidate running against Trevis Butcher’s father, Ed Butcher, who was seeking a House seat after term limits made it impossible for him to run for re-election to the Senate.¹⁴²

TOP CONTRIBUTORS TO THE MONTANA TERM LIMIT MEASURE, 2004

CONTRIBUTOR	TOTAL
U.S. Term Limits	\$64,744
Americans for Limited Government	\$18,161
Trevis M. Butcher	\$3,600
TOTAL	\$86,505

¹³⁹ Bob Anez, “Backers of Gay Marriage Ban Make Pitch,” *Spokesman-Review*, July 25, 2004, sec. B, p. 3.

¹⁴⁰ Mike Dennison, “Term-limits Supporters Going After Lewistown Candidates,” *Great Falls Tribune*, June 5, 2004.

¹⁴¹ Ibid.

¹⁴² Ibid.

Butcher gave \$3,600 to the No on 42 committee through in-kind goods or services.

The remainder of the funds came in relatively small amounts from numerous individuals. The contributors included some names recognizable in Montana politics:

- Tom Shellenberg, a CPA from Livingston, gave \$80. He sponsored an initiative in 2000 to ban gambling in the state. He also authored a 2002 initiative, designed to ban video gambling machines in Montana.
- Bob Davies, a Republican from Bozeman who was elected to the state House in 1998 and 2000, gave \$50.
- Royal Johnson, a former legislator from Billings, gave \$50. A Republican, Johnson had served five consecutive two-year terms in the Montana House, from 1990 to 2000, and was elected in 2000 to the state Senate.

APPENDIX A

The following table shows the total amount raised by ballot measure committees in the states that faced ballot questions in 2003 and 2004. The totals in this table do not include such non-contribution income as refunds of deposits, interest income, and sale of stocks and bonds. Totals on the Institute's Web site include all income, not just contributions, and may differ slightly from those in the table below.

STATE	TOTAL	RANK
Alaska	\$1,920,525	20
Alabama	\$14,732,321	10
Arizona	\$5,340,123	16
Arkansas	\$2,378,387	18
California	\$304,001,650	1
Colorado	\$24,506,211	5
Florida	\$57,859,004	2
Georgia	\$92,765	26
Hawaii	\$39,165	28
Kentucky	\$723,996	22
Louisiana	\$133,064	25
Maine	\$20,509,634	6
Michigan	\$30,235,593	4
Mississippi	\$7,215	31
Missouri	\$16,903,224	9
Montana	\$5,369,342	15
Nebraska	\$7,995,757	13
Nevada	\$12,743,584	11
New Hampshire	\$6,884	32
New Jersey	\$72,350	27
North Carolina	\$2,043,983	19
North Dakota	\$8,974	30
Ohio	\$5,441,233	14
Oklahoma	\$8,100,209	12
Oregon	\$35,759,004	3
South Carolina	\$174,220	23
South Dakota	\$155,436	24
Texas	\$18,038,762	8
Utah	\$2,848,155	17
Washington	\$19,810,729	7
Wisconsin	\$21,440	29
Wyoming	\$1,722,292	21
TOTAL	\$599,695,231	