



Big Business Ballot Bullies

In 2016 State Ballot Initiative Races, Corporate-Backed Groups' Campaign War Chests Outmatch Their Opposition by an Average of 10-to-1

Acknowledgments

This report was written by Rick Claypool, research director for Public Citizen's president's office and edited by Robert Weissman, president of Public Citizen.

About Public Citizen

Public Citizen is a national nonprofit organization with more than 400,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, worker safety, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.



Public Citizen
1600 20th St. NW
Washington, D.C. 20009
P: 202-588-1000
<http://www.citizen.org>

© 2016 Public Citizen.

Table of Contents

Key Findings 4

Introduction..... 5

Methodology..... 7

California..... 8

 Drug Price Relief Act (Proposition 61) 8

 Referendum to Overturn Ban on Single-Use Plastic Bags (Proposition 67) 10

Colorado 14

 State Health Care System Initiative (Amendment 69) 14

 Mandatory Setback from Oil and Gas Development Amendment (Amendment 78) 16

Florida 19

 Florida Solar Energy Subsidies and Personal Solar Use Initiative (Amendment 1) 19

Oregon..... 23

 Business Tax Increase (Measure 97)..... 23

South Dakota 26

 South Dakota Payday Lending Initiative (Initiated Measure 21) 27

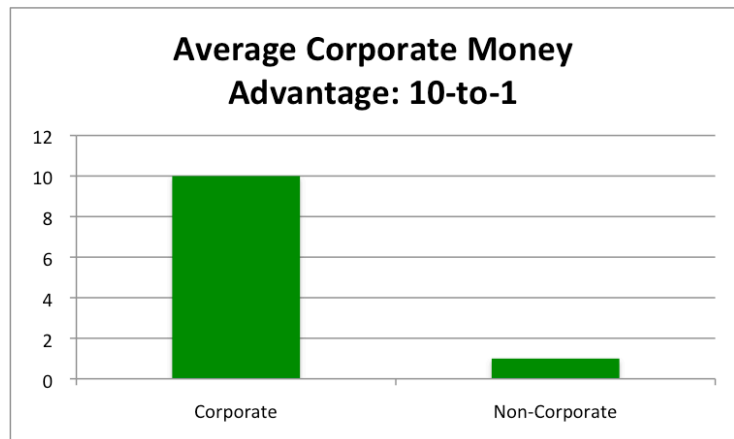
 South Dakota Limit on Statutory Interest Rates for Loans (Constitutional Amendment U) 28

A Note on Gambling Initiatives 30

Conclusion 31

Key Findings

- Reviewing eight high-profile initiatives in five states in the 2016 election cycle, corporate-backed groups are out-fundraising their mostly non-corporate opposition by 10-to-1, through Sept. 15, 2016. (This average excludes races in which the non-corporate opposition has raised \$0.)
- Total corporate spending in the eight races through Sept. 15, 2016 is \$139,816,259.
- By far, the most expensive race examined in the study is for California's Drug Price Relief Act, where both sides have reported raising more than \$96 million – and 90% of that (\$86,602,172) is from the measure's pharmaceutical industry-backed opposition.
- The least expensive race examined is for South Dakota's Payday Lending Initiative, where both sides together have reported raising \$686,348. In this race, a single corporation, a Georgia-based short-term lender (Select Management Resources) is the sole funder of the measure's opposition and has out-fundraised the initiative's proponents 16-to-1.
- The widest disparity between spending by corporate-backed groups and their mostly non-corporate opposition was found in the race for Colorado's Mandatory Setback from Oil and Gas Development Amendment, where corporate interests out-fundraised amendment proponents 24-to-1.
- The biggest corporate spenders so far are Pfizer and Johnson & Johnson, each of which contributed more than \$7 million toward defeating California's Drug Price Relief Act. Other top spenders include Anadarko Petroleum Corporation, which contributed \$6.55 million toward defeating Colorado's Mandatory Setback Amendment, and Duke Energy, which contributed \$5.7 million supporting the Florida solar initiative that favors utility companies.
- Races where groups opposing business interests report receiving \$0 include the campaign against South Dakota's Limit on Statutory Interest Rates For Loans (Amendment U) and all three gambling initiatives for which campaign finance data are available. The group supporting Amendment U also is solely backed by a single corporation, Select Management Resources.



Introduction

State ballot initiatives and referenda empower voters to democratically choose to adopt or reject proposed policies. Originally advanced by the Progressive and Populist movements as a means to check the power of the Gilded Age corporate and wealthy special interests that dominated the politics of the day, twenty-four states¹ and the District of Columbia ultimately adopted some form of lawmaking via citizen-led petition campaigns.² But in 2016, as in recent election years,³ big spending by corporate interests seeking to preserve the status quo and thwart reforms are threatening to stifle this powerful tool of grassroots democracy.

This report highlights eight initiative and referendum campaigns in five states (California, Colorado, Florida, Oregon and South Dakota) in the 2016 election cycle, and in which business-backed campaigns have raised vastly disproportionate sums to defeat reforms they oppose. Among the policies targeted by corporate attacks are local efforts to reduce prescription drug prices, restrict predatory lending, limit fracking near homes and schools, advance universal health care, raise taxes on businesses, encourage rooftop solar adoption and prohibit the use of plastic bags at grocery stores.

In part because of historically low turnout in the 2014 midterm elections,⁴ 2016 is a big year for ballot initiatives and referenda. In order for an initiative or referendum to reach the ballot, states require campaigns to collect a certain number of signatures from voters. The number of signatures campaigns must collect typically is a percentage of the number votes cast in a previous election. For example, in California, a campaign must collect a number of signatures at least equal to five percent of the number of votes cast in previous gubernatorial election. For each state examined in this report except Florida, the signature threshold that initiative or referendum petitions were required to meet to reach the ballot was calculated from a percentage of votes cast in 2014. Ultimately, in 2016 a total of 74 citizen-initiated state ballot measures were certified.⁵

While it was in 2010 that the U.S. Supreme Court ruled in *Citizens United v. Federal Election Commission* to allow corporations to spend unlimited sums toward electing or defeating political candidates, the court rejected restrictions on corporate spending in initiative and referendum campaigns nearly four decades ago. This 1977 Supreme Court ruling, in a case called *First National*

¹ Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming. Most of these states adopted processes for legislation via direct democracy between 1898 and 1918. Late adopters include Alaska (1959, when it was recognized as a state), Florida (1968), Illinois (1970) and Mississippi (1992). Craig Holman, Ph.D., “An Assessment of New Jersey’s Proposed Limited Initiative Process,” Brennan Center for Justice at NYU School of Law (Dec. 31, 2000), <https://www.brennancenter.org/publication/assessment-new-jerseys-proposed-limited-initiative-process-0>

² *Ibid.*

³ See Liz Essley White, “Big business crushed ballot measures in 2014,” The Center for Public Integrity (Feb. 5, 2015), <https://www.publicintegrity.org/2015/02/05/16693/big-business-crushed-ballot-measures-2014>

⁴ Editorial, “The Worst Voter Turnout in 72 Years,” The New York Times (Nov. 11, 2014), <http://www.nytimes.com/2014/11/12/opinion/the-worst-voter-turnout-in-72-years.html>

⁵ Ballotpedia, “2016 ballot measures,” (Accessed Sept. 20, 2016), https://ballotpedia.org/2016_ballot_measures

Bank of Boston v. Bellotti, enables for-profit corporations to directly fund campaigns for or against initiatives and referenda on state ballots. Because of the *Bellotti* decision, corporations can hire paid petitioners to gather the names needed to secure an initiative's place on the ballot, pay public relations firms to generate positive press coverage and buy air time for political advertisements to influence voters.

Table 1: 2016 Races in Which Corporate-backed Initiative/Referenda Campaigns Are Vastly Out-fundraising Their Opponents.

Initiative/Referendum	State	Funds Raised by Corporate-backed Group(s)	Funds Raised by Mostly Non-Corporate Opposition*	Corporate Groups' Fundraising Advantage
Drug Price Relief Act (Prop. 1)	Calif.	\$86,602,172	\$9,537,638	9-to-1
Referendum to Overturn Ban on Single-Use Plastic Bags (Prop. 67)	Calif.	\$2,844,550	\$1,187,644	2.4-to-1
State Health Care System Initiative (Amend. 69)	Co.	\$4,771,415.31	\$751,015	6.3-to-1
Mandatory Setback from Oil and Gas Development Amendment (Amend. 78)	Co.	\$16,904,293	\$703,536.91	24-to-1
Right to Solar Energy Choice Initiative (Amend. 1)	Fl.	\$21,523,917	\$2,133,387	10-to-1
Business Tax Increase (Measure 97)	Ore.	\$9,477,607	\$2,852,495	3-to-1
Payday Lending Initiative (I.M. 21)	S.D.	\$646,227	\$40,121	16-to-1
Limit on Statutory Interest Rates for Loans (Amend. U)	S.D.	\$1,781,612	\$0	(opposition reported no contributions)
<i>Average</i>	--	<i>\$18,068,974</i>	<i>\$2,150,730</i>	<i>10-to-1**</i>

* See tables below for detailed breakdowns of corporate money received by the groups campaigning for or against each initiative or referendum.

**Does not include the S.D. race where opposition raised \$0.

In 2014, corporate interests spent more than \$266 million on ballot initiatives.⁶ Nearly \$88 million of this spending came from the health care sector, and nearly \$60 million came from casino

⁶ Liz Essley White, "Big business crushed ballot measures in 2014," The Center for Public Integrity (Feb. 5, 2015), <https://www.publicintegrity.org/2015/02/05/16693/big-business-crushed-ballot-measures-2014>

interests. The top corporate ballot initiative spender in 2014 was Mile High USA, which spent \$19.8 million toward an effort to expand gambling in Colorado (which voters rejected).⁷

Only after the results of the November 2016 elections will the success or failure of these corporate campaigns' vastly asymmetrical campaign fundraising be apparent. Nevertheless, regardless of the results on Election Day, it is hard to overstate the impact of corporate spending on these measures. With business interests spending as much as 24 times more than their opponents, proponents of ballot legislation that challenge corporate interests face unquestionably uphill battles. Clearly, direct democracy is undermined when business groups can dominate the media-moderated political discourse through an unrestricted mobilization of wealth that opponents without the backing of major corporations or billionaires can never hope to match. Too often, those trying to redress corporate abuses – using direct appeals to voters to overcome corporate influence over the legislative process – find themselves overwhelmed, as massive corporate spending defeats otherwise popular measures and citizens are deterred from filing referenda and initiatives in the first place.

Methodology

The following case studies highlight corporate contributions in eight initiative and referendum campaigns in five states between Jan. 1, 2015 and Sept. 16, 2016. Public campaign finance contribution data were collected from each state's respective database. Groups that are characterized as "corporate" or "corporate-backed" received at least three-quarters of their funding from for-profit corporations, corporate-affiliated political action committees (PACs) and/or corporate-affiliated trade groups organized under section 501(c)6 of the U.S. tax code. All but one⁸ received more than 95 percent of their funding from for-profit corporations or corporate-affiliated entities. In order to err on the side of under-counting corporate contributions, nonprofits organized under 501(c)3 and 501(c)4 of the tax code and which may serve as conduits for corporate dark money were not counted as corporate or corporate-affiliated.⁹ Non-monetary/in-kind contributions are included with the monetary value disclosed by the campaign finance database. The number of contributions does not correct instances of multiple contributions by the same contributor.

⁷ *Ibid.*

⁸ Florida's Consumers for Smart Solar, which is 82 percent corporate-funded.

⁹ For example, the \$1,440,000 in contributions to Florida's Consumers for Smart Solar from 60 Plus Association, an ideological group with ties to Charles and David Koch's conservative political network, is not included, despite that group's corporate ties. For more about the connection between 60 Plus and the Koch brothers, see Michael Beckel, "Koch-backed seniors group low-balling election spending?" Center for Public Integrity (July 30, 2014), <https://www.publicintegrity.org/2014/07/30/15163/koch-backed-seniors-group-low-balling-election-spending>

California

In California, both the initiative for the Drug Price Relief Act (Proposition 61) and the Referendum to Overturn Ban on Single-Use Plastic Bags (Proposition 67) have attracted significant attention from the corporate interests these pieces of legislation most directly impact: the pharmaceutical industry and the plastics industry, respectively.

To qualify for the California ballot, a “statute” (legislative initiative) or referendum campaign must collect at as many voters’ signatures as five percent of the votes cast in previous gubernatorial election (for constitutional amendment campaigns, the threshold is eight percent).¹⁰ For statute and referendum campaigns held from 2015 to 2018, the signature threshold is 365,880 – 27 percent lower than the most recent previous threshold and the lowest the threshold has been since 1982.¹¹

The lower-than-usual threshold means Californians will have the opportunity to vote on a total of 17 ballot measures,¹² which have led to the collection of nearly \$200 million in campaign contributions to campaigns for or against the various measures.¹³

Drug Price Relief Act (Proposition 61)

The Drug Price Relief Act, which seeks to reduce the price of prescription drugs, was proposed as an initiative campaign effort in April 2015.¹⁴ The act’s stated purpose is to “enable the State of California to pay the same prices for prescription drugs as the prices paid by the United States Department of Veteran Affairs, thus rectifying the imbalance among government payers.”¹⁵

¹⁰ Craig Holman, Ph.D., “An Assessment of New Jersey’s Proposed Limited Initiative Process,” Brennan Center for Justice at NYU School of Law (Dec. 31, 2000), page 13,

<https://www.brennancenter.org/publication/assessment-new-jerseys-proposed-limited-initiative-process-0>

¹¹ The previous threshold (for 2011 to 2014) was 504,760. The 1979 to 1982 threshold was 346,110.

BallotPedia, “Laws governing the initiative process in California,” (Accessed Sept. 20, 2016),

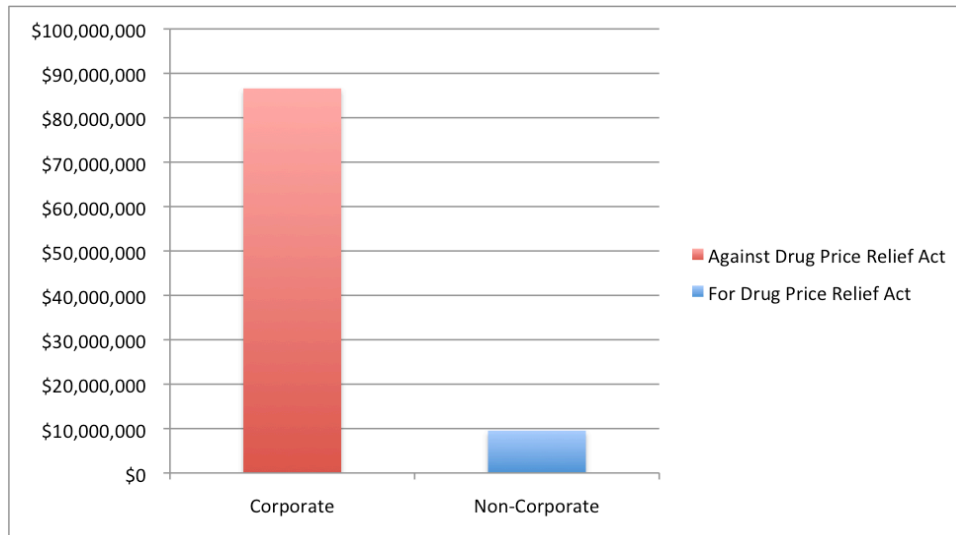
https://ballotpedia.org/Laws_governing_the_initiative_process_in_California

¹² Adam Nagourney, “The California Voter Ordeal: 17 Decisions on the Ballot,” The New York Times (Sept. 5, 2016), <http://www.nytimes.com/2016/09/06/us/california-voter-initiatives.html>

¹³ John Myers and Sophia Bollag, “The money is starting to roll in on California’s 17 ballot propositions. A lot of it,” *Los Angeles Times* (Aug. 11, 2016), <http://www.latimes.com/politics/la-pol-ca-money-raised-november-california-propositions-20160811-snap-htmstory.html>

¹⁴ Summary of the California Drug Price Relief Act filed with the initiative coordinator at the California attorney general’s office, available at https://oag.ca.gov/system/files/initiatives/pdfs/15-0009_%28Prescription_Drug_Costs%29.pdf

¹⁵ *Ibid.*



The leading proponent of the Drug Price Relief Act is the AIDS Healthcare Foundation, a Los Angeles-based nonprofit organization that provides medical for HIV/AIDS patients and advocates for improved treatments and lower drug prices.¹⁶ The group formed Californians for Lower Drug Prices and collected nearly 543,000 signatures, and the California secretary of state's office announced the initiative's qualification for the ballot in December 2015.¹⁷ AIDS Healthcare Foundation has so far contributed \$9,405,715 toward the effort (98 percent of the funding the campaign has thus far received).¹⁸

At the time of the secretary of state's announcement, the initiative's pharmaceutical industry opponents, led by the Pharmaceutical Research and Manufacturers of America (PhRMA), had already amassed nearly \$38 million from 30 drug companies for the group it formed, Californians Against the Misleading RX Measure.¹⁹ By September 2016, the corporate contributions would swell to more than \$86 million, with contributions from drug companies such as Pfizer and Johnson & Johnson exceeding \$7.2 million each. This means that the drug industry contributions toward opposing the Drug Price Relief Act makes up more than 40 percent of all contributions to all 17 initiatives on the November ballot.

¹⁶ See AIDS Healthcare Foundation website, <http://www.aidshealth.org>

¹⁷ Jim Miller, "Drug price-control measure qualifies for fall 2016 ballot," *The Sacramento Bee* (Dec. 18, 2015), <http://www.sacbee.com/news/politics-government/capitol-alert/article50484140.html>

¹⁸ Campaign finance data available via California Secretary of State's office, <http://powersearch.sos.ca.gov/advanced.php> (Accessed Sept. 7, 2016)

¹⁹ *Ibid.*

Table 2A: Corporate-backed Opponents of the Drug Price Relief Act Raised More Than Nine Times the Money of the Initiative's Proponents.

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Californians for Lower Drug Prices	Support	\$0	\$9,537,638	459	0%
Californians Against the Misleading RX Measure	Oppose	\$86,602,172	\$86,602,172	95	100%

Source: California Secretary of State's office (data accessed Sept. 7, 2016)

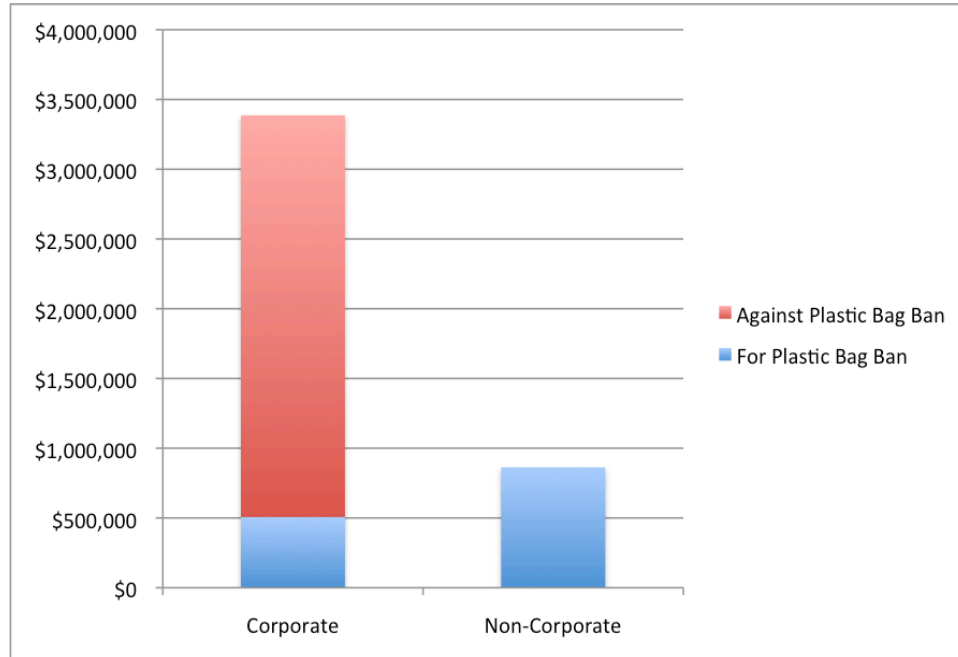
Table 2B: Top Corporate Contributions Supporting or Opposing California Drug Price Relief Act

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Pfizer, Inc.	\$7,212,000	New York	Californians Against the Misleading RX Measure	Oppose
1	Johnson & Johnson	\$7,212,000	New Jersey	Californians Against the Misleading RX Measure	Oppose
3	Amgen	\$5,617,000	California	Californians Against the Misleading RX Measure	Oppose
4	AbbVie Inc.	\$5,203,000	Illinois	Californians Against the Misleading RX Measure	Oppose
4	Sanofi-Aventis U.S.	\$5,203,000	New Jersey	Californians Against the Misleading RX Measure	Oppose
6	AstraZeneca Pharmaceuticals LP	\$4,923,000	Delaware	Californians Against the Misleading RX Measure	Oppose
7	Gilead Sciences, Inc.	\$4,000,000	California	Californians Against the Misleading RX Measure	Oppose
8	Allergan USA, Inc.	\$3,818,000	New Jersey	Californians Against the Misleading RX Measure	Oppose
9	Biogen	\$3,538,000	Massachusetts	Californians Against the Misleading RX Measure	Oppose
9	Bristol-Myers Squibb Company	\$3,538,000	New York	Californians Against the Misleading RX Measure	Oppose
9	Eli Lilly and Company	\$3,538,000	Indiana	Californians Against the Misleading RX Measure	Oppose
9	GlaxoSmithKline	\$3,538,000	North Carolina	Californians Against the Misleading RX Measure	Oppose
9	Novo Nordisk Inc.	\$3,538,000	New Jersey	Californians Against the Misleading RX Measure	Oppose
9	Novartis Pharmaceuticals Corporation	\$3,538,000	New York	Californians Against the Misleading RX Measure	Oppose

Source: California Secretary of State's office (data accessed Sept. 7, 2016). Top contributions charts in this report generally refer to the top 10 contributions but include more when equivalent contributions make contributors "tied" within the top 10.

Referendum to Overturn Ban on Single-Use Plastic Bags (Proposition 67)

California became the first state to ban single-use plastic bags following the passage of state legislation that was signed into law by Gov. Jerry Brown on September 30, 2014.²⁰ Embraced by environmental advocates and the grocery sector, the legislation aimed to eliminate the use of plastic grocery bags by July 1, 2015, including by providing loans intended to help plastic bag manufacturers transition into operations capable of producing reusable bags.²¹



In February 2015, the plastics industry-backed campaign group, American Progressive Bag Alliance, submitted more than 800,000 signatures to the secretary of state, qualifying its referendum on the bag ban for the ballot and halting the implementation of the ban (until after the November 2016 vote, if the referendum fails). The bag ban opponents claim that the true purpose of the legislation is increasing grocery revenues with the 10-cent fee shoppers would pay for paper grocery bags after the law's implementation.²²

The coalition supporting the bag ban, organized as California vs. Big Plastic, includes environmental groups like the Sierra Club and business groups like the California Grocers Association. The campaigns for and against the bag ban provide an example of different corporate interests taking opposing sides on an issue. This is not to say that both groups are equally under the influence of corporate interests. As Table 4 shows, the anti-ban American Progressive Bag Alliance, which has more than double the funds of all four pro-ban groups together, is 100 percent corporate-backed. While corporate interests are indeed supporting the ban with substantial contributions, these contributions make up less than half of the contributions the pro-ban groups have received, and

²⁰ Melody Gutierrez, "California becomes first state to ban plastic bags," SFGate (Sept. 30, 2014), <http://www.sfgate.com/politics/article/California-becomes-first-state-to-ban-plastic-bags-5791041.php>

²¹ *Ibid.*

²² Patrick McGreevy, "California's plastic-bag ban put on hold by ballot referendum," *Los Angeles Times* (Feb. 24, 2015), <http://www.latimes.com/local/political/la-me-pc-california-plastic-bag-ban-20150223-story.html>

amount to a sum equal to about 17 percent of what the corporate-backed American Progressive Bag Alliance has received.

Table 3A: Corporate-Backed Opponents of the Bag Ban have Raised More Than Double the Money of Those Groups Seeking to Keep It in Place.

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Yes on 67 – Protect the Plastic Bag Ban	Support	\$397,600	\$494,573	58	80%
Committee to Protect the Plastic Bag Ban (sponsored by the California Grocers Association)	Support	\$109,000	\$109,000	14	100%
Save the Bag Ban (sponsored by Environment California)	Support	\$0	\$662,512	1,779	0%
Californians Against Waste	Support	\$0	\$8,638	28	0%
Save the Bay Action Fund Committee to Support Proposition 67	Support	\$0	\$95,000	3	0%
American Progressive Bag Alliance (a project of the Society of the Plastics Industry)	Oppose	\$2,879,383	\$2,879,383	30	100%

Source: California Secretary of State's office (data accessed Sept. 15, 2016)

Table 3B: Top Corporate / Business Group Contributions Supporting or Opposing Plastic Bag Ban Referendum

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group(s)	Support / Oppose
1	Hilex Poly Co. LLC	\$1,082,239	S.C.	American Progressive Bag Alliance	Oppose
2	Formosa Plastics Corporation U.S.A.	\$748,441	N.J.	American Progressive Bag Alliance	Oppose
3	Superbag Corp.	\$601,869	Texas	American Progressive Bag Alliance	Oppose
4	Advance Polybag, Inc.	\$446,833	Texas	American Progressive Bag Alliance	Oppose
5	California Grocers Association	\$209,000	Calif.	Committee to Protect the Plastic Bag Ban California vs. Big Plastic	Support
6	Albertsons Safeway	\$105,000	Ariz.	California vs. Big Plastic	Support
7	Ralphs/Food 4 Less	\$80,000	Ohio	California vs. Big Plastic	Support
8	Raley's	\$25,000	Calif.	California vs. Big Plastic	Support
9	Smart & Final	\$10,000	Calif.	California vs. Big Plastic	Support
10	Retailers for a Better California (sponsored by California Retailers Association)	\$5,000	Ohio	California vs. Big Plastic	Support
10	Roplast Industries Incorporated	\$5,000	Ohio	California vs. Big Plastic	Support

Source: California Secretary of State's office (data accessed July 15, 2016)

Colorado

In Colorado, the State Health Care System Initiative (Amendment 69) and the Mandatory Setback from Oil and Gas Development Amendment (Amendment 78) are among that state's initiatives that have attracted considerable corporate opposition, in particular from the health insurance industry and the fossil fuel industry, respectively.

To qualify for the Colorado ballot, an initiative must collect as many voters' signatures as five percent of the votes cast in the previous election for secretary of state, an elected office in Colorado. For campaigns held from 2015 to 2018, the signature threshold is 98,492, an increase from previous recent years.²³

On Election Day 2016, voters will decide on a total of nine statewide ballot measures. Until recently, that number had been eleven, but two measures were struck from the ballot. One of those measures, the Mandatory Setback from Oil and Gas Development Amendment, is discussed below in this report.

State Health Care System Initiative (Amendment 69)

The State Health Care System Initiative seeks to replace the for-profit health insurance system with a public system, dubbed "ColoradoCare," that would essentially act as the single payer for Colorado citizens' medical expenses.²⁴ Passage of the measure would make Colorado the first U.S. state to adopt a truly universal, single-payer style health care system.²⁵ The ColoradoCare Yes campaign turned in more than 156,000 signatures,²⁶ and is funded primarily from individual contributions.²⁷

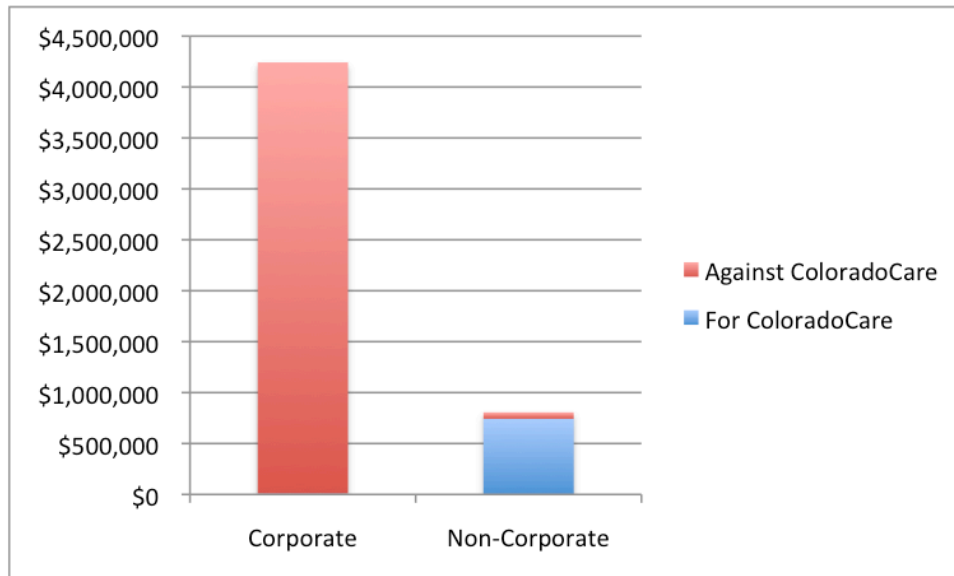
²³ Ballotpedia, "Signature requirements for ballot measures in Colorado," (Accessed Sept. 20, 2016), https://ballotpedia.org/Signature_requirements_for_ballot_measures_in_Colorado

²⁴ Summary of the State Health Care Initiative filed with the Colorado secretary of state's office, available at <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2015-2016/20Final.pdf>

²⁵ Single-payer "style" because, technically, ColoradoCare would not be a true single payer system, as it would continue to work alongside Medicare, federal health care coverage for veterans and private insurance plans that individuals would have the option to purchase. See Jack Healy, "Colorado Weighs Replacing Obama's Health Policy With Universal Coverage," *The New York Times* (April 28, 2016), <http://www.nytimes.com/2016/04/29/us/colorado-weighs-replacing-obamas-health-policy-with-universal-coverage.html>

²⁶ Joey Bunch, "ColoradoCare backers collect 156,000 signatures for single-payer plan," *The Denver Post* (Oct. 23, 2015), <http://www.denverpost.com/2015/10/23/coloradocare-backers-collect-156000-signatures-for-single-payer-plan/>

²⁷ As of late June, the campaign had received 3,184 contributions, averaging \$187 each.



The measure's primary opposition, Coloradans for Coloradans, is primarily backed by the for-profit insurance industry and run by Democratic and Republican political operatives.²⁸ This corporate-backed group holds a 6-to-1 fundraising advantage over the measure's proponents. Other groups opposing ColoradoCare include Colorado Health Care Choices and Hospitality Issues PAC.²⁹

Table 4A: Corporate-Backed Opponents of ColoradoCare have Raised More Than Six Times the Money of the Reform's Proponents.

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
ColoradoCare Yes	Support	\$7,642	\$751,015	4433	1%
Coloradans for Coloradans	Oppose	\$3,848,450	\$3,904,332	323	98%
Colorado Health Care Choices	Oppose	unknown*	\$475,003	2	unknown*
Hospitality Issues PAC**	Oppose	\$385,380	\$392,080	98	98%

Source: Colorado Secretary of State's office³⁰ (data accessed Sept. 8, 2016)

*"Colorado Health Care Institute," which may or may not represent business interests and which is not affiliated with the similarly named Colorado Health Institute, is the sole contributor to Colorado Health Care Choices

**Hospitality Issues PAC also opposes the Colorado \$12 Minimum Wage measure (Amendment 70)

²⁸ Lee Fang, "Prominent Democratic Consultants Sign Up to Defeat Single Payer in Colorado," The Intercept (May 3, 2016), <https://theintercept.com/2016/05/03/single-payer-dems-colo/>

²⁹ Jakob Rodgers, "Opponents of Amendment 69 greatly outraise, outspend health proposal's backers," Colorado Springs Gazette (Sept. 8, 2016), <http://gazette.com/opponents-of-amendment-69-greatly-outraise-outspend-health-proposals-backers/article/1585051>

³⁰ Campaign finance data available via Colorado Secretary of State's office, <http://tracer.sos.colorado.gov/PublicSite/SearchPages/ContributionSearch.aspx> (Accessed Sept. 8, 2016)

Table 4B: Top Corporate / Business Group Contributions Supporting or Opposing ColoradoCare.

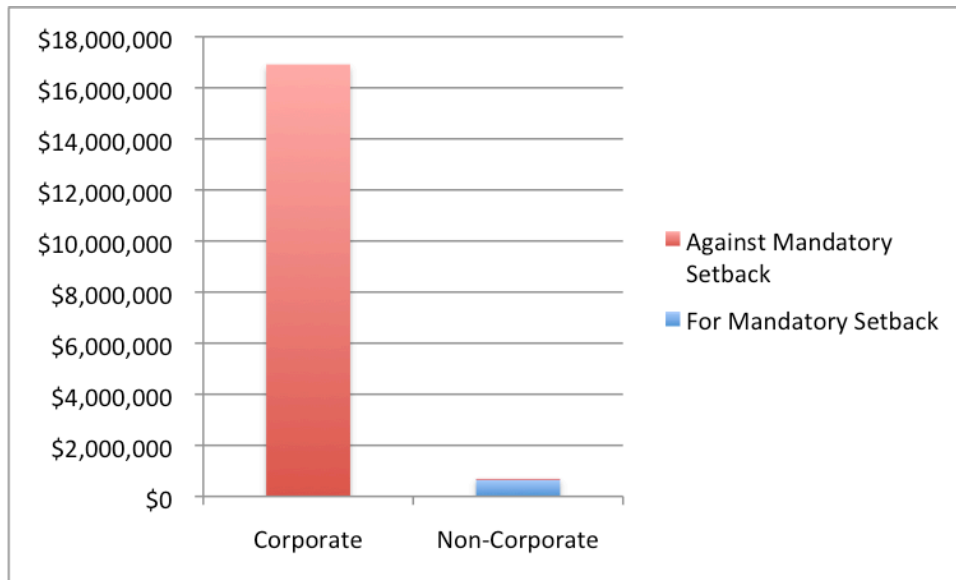
Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group(s)	Support / Oppose
1	Anthem, Inc.	\$1,000,000	Ohio	Coloradans for Coloradans	Oppose
2	KP Financial Svcs Ops	\$500,000	Calif.	Coloradans for Coloradans	Oppose
3	United Healthcare Services	\$450,000	Conn.	Coloradans for Coloradans	Oppose
4	Centura Health	\$250,000	Co.	Coloradans for Coloradans	Oppose
4	HealthOne System Support	\$250,000	Co.	Coloradans for Coloradans	Oppose
6	Rocky Mountain Advertising Co-Operative Association	\$130,000	Kan.	Hospitality Issues PAC	Oppose
7	National Restaurant Association	\$110,000	D.C.	Hospitality Issues PAC	Oppose
8	Cigna Health and Life Insurance Company	\$100,000	Pa.	Coloradans for Coloradans	Oppose
8	PhRMA	\$100,000	D.C.	Coloradans for Coloradans	Oppose
8	SCL Health	\$100,000	Co.	Coloradans for Coloradans	Oppose
8	Colorado Association of Realtors	\$100,000	Co.	Coloradans for Coloradans	Oppose
8	Denver Metro Chamber of Commerce	\$100,000	Co.	Coloradans for Coloradans	Oppose
8	Mountain West Series of Lockton Companies	\$100,000	Co.	Coloradans for Coloradans	Oppose

Source: Colorado Secretary of State's office (data accessed Sept. 8, 2016)

Mandatory Setback from Oil and Gas Development Amendment (Amendment 78)

The Mandatory Setback from Oil and Gas Development Amendment would require all oil and gas development (i.e. fracking and other fossil fuel extraction and refinement processes) in the state of Colorado to occur at least 2,500 feet from any occupied structure (homes, schools, businesses, etc.) or “area of concern” (drinking water sources, lakes, parks, etc.).³¹

³¹ Summary of the Mandatory Setback Initiative filed with the Colorado secretary of state's office, available at <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2015-2016/78Final.pdf>



Both the Mandatory Setback from Oil and Gas Development Amendment and a companion measure intended to strengthen local governments' ability to regulate the fossil fuel industry failed to meet the signature threshold, according to an announcement by Colorado Secretary of State Wayne Williams on August 29, 2016.³² While the proponents of these measures, organized as the group Yes for Health and Safety Over Fracking, turned in about 107,000 signatures each, a significant enough percentage were invalidated to bring the count below the threshold.³³ Proponents of these measures have 30 days to appeal the state's decision. A press release posted on the group's website calls attention to the corporate-backed campaign against the signature collection effort and says that the group has yet to decide whether it will file an appeal.³⁴

Irrespective of the outcome, corporate political spending against the Mandatory Setback measure has been dramatic. Fossil fuel companies organized as Protect Colorado amassed more than \$16 million, or more than 24 times the campaign funds raised by the measure's proponents. Considering the Mandatory Setback proponents' failure to meet the signature threshold, it's especially noteworthy that the measure and its companion faced an unusual, aggressive and likely unexpected, "Decline to Sign" campaign from the corporate-backed opposition.³⁵ Protect Colorado ran TV ads urging Coloradans against signing the initiative petitions for the fossil fuel measures and

³² Mark K. Matthews, "Colorado anti-fracking measures fail to make ballot; possible forgery alleged," *The Denver Post* (Aug. 29, 2016), <http://www.denverpost.com/2016/08/29/colorado-anti-fracking-measures-fail-to-make-ballot/>

³³ *Ibid.*

³⁴ Press Release, Yes for Health and Safety Over Fracking, "Ruling On Initiatives 75 and 78 Is Not The Final Say" (Aug. 29, 2016), <http://yesforhealthandsafety.org/press-release-ruling-on-initiatives-75-and-78-is-not-the-final-say/>

³⁵ Daniel Glick and Kelsey Ray, "Who's behind 'decline to sign' efforts?" *The Colorado Independent* (July 27, 2016), <http://www.coloradoindependent.com/160359/decline-to-sign-initiative-75-initiative-78>

even went so far as to hire “every major signature gathering company in Colorado,” effectively thwarting the initiatives from both the petition signer and petition gatherer sides of the equation.³⁶

Table 5A: Corporate-Backed Opponents of the Mandatory Setback have Raised More Than 24 Times the Money of the Reform’s Proponents.

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Yes for Health and Safety Over Fracking	Support	\$25,415	\$703,536	407	3.6%
Protect Colorado	Oppose	\$16,888,484	\$16,904,293	173	99.9%

Source: Colorado Secretary of State’s office (data accessed Sept. 8, 2016)

Table 5B: Top Corporate / Business Group Contributions Supporting or Opposing the Mandatory Setback from Oil and Gas Development Amendment

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Anandarko Petroleum Corp.	\$6,550,000	Co.	Protect Colorado	Oppose
2	Noble Energy Inc.	\$5,000,000	Co.	Protect Colorado	Oppose
3	PDC Energy	\$1,256,300	Co.	Protect Colorado	Oppose
4	Bayswater Exploration & Production	\$1,000,000	Co.	Protect Colorado	Oppose
5	Synergy Resources Corporation	\$700,000	Co.	Protect Colorado	Oppose
6	Coloradans for Responsible Energy Development	\$556,605	Co.	Protect Colorado	Oppose
7	Whiting Oil and Gas Corporation	\$550,000	Co.	Protect Colorado	Oppose
8	Extraction Oil & Gas	\$375,000	Co.	Protect Colorado	Oppose
9	Great Western Operating Company	\$125,000	Co.	Protect Colorado	Oppose
10	HRM Resources LLC	\$110,000	Co.	Protect Colorado	Oppose

Source: Colorado Secretary of State’s office (data accessed Sept. 8, 2016)

³⁶ Peter Blake, ““Decline to sign” campaign is first of its kind,” The Complete Colorado (July 21, 2016), <http://completecolorado.com/pagetwo/2016/07/21/blake-decline-to-sign-campaign-is-first-of-its-kind/>

Florida

Florida saw a confusing battle of solar initiatives in which an initiative supported by environmental groups, tea party groups and solar power companies vied against an initiative backed primarily by energy utility companies for the November 2016 ballot.³⁷ Ultimately, only the utility-backed initiative campaign secured enough signatures, and the state Supreme Court narrowly ruled in favor of allowing it on the ballot.³⁸

To qualify for the Florida ballot, a campaign proposing an amendment to the state's constitution must collect as many voters' signatures as eight percent of the votes cast in the previous presidential election. In 2016, the signature threshold is 683,149, an increase from previous recent years.³⁹

On Election Day, voters will decide on a total of four statewide ballot measures, including the Florida Solar Energy Subsidies and Personal Solar Use Initiative (Amendment 1). In Florida, a constitutional amendment requires 60 percent of the votes to pass.⁴⁰ The solar proposal supported by environmental groups, which did not meet the signature threshold, now has the goal of reaching the ballot in 2018.⁴¹

Florida Solar Energy Subsidies and Personal Solar Use Initiative (Amendment 1)

The utility-backed Consumers for Smart Solar PAC⁴² and its Florida Solar Energy Subsidies and Personal Solar Use Initiative⁴³ were launched to undermine the Florida Right to Produce and Sell Solar Energy Initiative.⁴⁴ During the rooftop solar campaign's petition-gathering phase, utility companies led by Florida Power and Light Company (a subsidiary of NextEra Energy) launched their competing petition gathering effort, paying petition-gatherers double the rooftop solar campaign's rate and sowing confusion among voters.⁴⁵ Florida Power and Light Company, Duke

³⁷ See also: Rick Claypool, "Battle Over Florida Solar Initiative Dominated by Just Four Utility Companies That Spent \$12 Million to Support the Initiative," Public Citizen Report (July 27, 2016), <http://www.citizen.org/documents/florida-solar-initiative-utility-report-july-2016.pdf>

³⁸ "Florida Supreme Court OKs solar ballot proposal," *Sun Sentinel* (March 31, 2016), <http://www.sun-sentinel.com/business/consumer/fl-nsf-solar-ballot-proposal-20160331-story.html>

³⁹ Ballotpedia, "Signature requirements for ballot measures in Florida," (Accessed Sept. 20, 2016), https://ballotpedia.org/Signature_requirements_for_ballot_measures_in_Florida

⁴⁰ Florida Right to Solar Energy Choice Initiative, Amendment 1 (2016) on Ballotpedia (accessed July 25, 2016), [https://ballotpedia.org/Florida_Right_to_Solar_Energy_Choice_Initiative,_Amendment_1_\(2016\)](https://ballotpedia.org/Florida_Right_to_Solar_Energy_Choice_Initiative,_Amendment_1_(2016))

⁴¹ Jim Turner, "Solar Choice ballot initiative targets 2018," *Sun-Sentinel* (Jan. 11, 2016), <http://www.sun-sentinel.com/business/consumer/fl-nsf-solar-choice-2018-ballot-20160111-story.html>

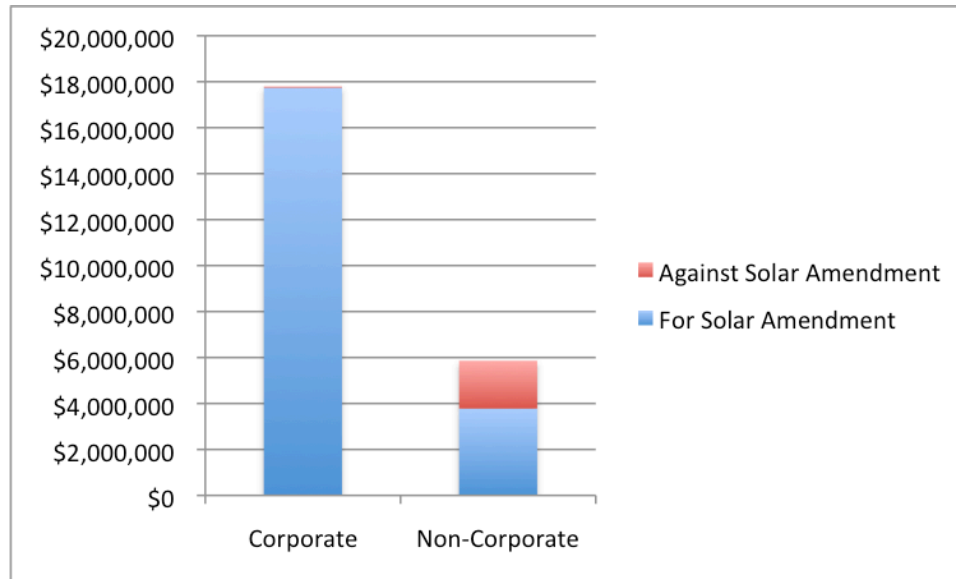
⁴² Consumers for Smart Solar website available at <https://smartsolarfl.org/>

⁴³ Originally the "Florida Right to Solar Choice Initiative"

⁴⁴ Sam Ross-Brown, "Tea Partiers and Progressives Unite Against 'Deceptive' Florida Ballot Initiative," *The American Prospect* (May 5, 2016), <http://prospect.org/article/tea-partiers-and-progressives-unite-against-deceptive-florida-ballot-initiative>

⁴⁵ Mary Ellen Klas, "Rival solar petitions spawn confusion, race for signatures," *Miami Herald* (Oct. 30, 2015), <http://www.miamiherald.com/news/politics-government/state-politics/article41968473.html>

Energy, Tampa Electric Company and Gulf Power Company together contributed \$16,393,797 to the campaign (76 percent of its funding).



The utility campaign, which has been criticized as “deceptive” by Florida newspapers,⁴⁶ successfully collected the number of petition signatures needed to put its initiative on the ballot.⁴⁷

The competing, environmental/tea party/solar company-backed initiative, which will not be on the ballot, sought to amend Florida’s constitution to allow consumers to lease solar panels and to allow owners of solar panels to sell excess energy they produce to neighboring consumers.⁴⁸ Currently, only utility companies are permitted to sell energy to Florida consumers, and consumers are prohibited from leasing rooftop solar panels (they must purchase and own the panels themselves, an arrangement that has greater upfront costs than leasing).⁴⁹ Most of the pro-solar fundraising, \$1,830,752, came from Southern Alliance for Clean Energy Action Fund, a 501(c)4 nonprofit that does not disclose donors, and which may include business contributions.

The utility-backed initiative would add language to the Florida constitution allowing for the regulation of solar power providers, including by enabling utilities to charge additional fees for

⁴⁶ Editorial, “Court should reject ‘solar’ amendment,” *Tampa Bay Times* (March 10, 2016), <http://www.tampabay.com/opinion/editorials/editorial-court-should-reject-solar-amendment/2268839>

⁴⁷ Florida Right to Solar Energy Choice Initiative, Amendment 1 (2016) on Ballotpedia (accessed July 25, 2016), [https://ballotpedia.org/Florida_Right_to_Solar_Energy_Choice_Initiative,_Amendment_1_\(2016\)](https://ballotpedia.org/Florida_Right_to_Solar_Energy_Choice_Initiative,_Amendment_1_(2016))

⁴⁸ Ivan Penn, “Republican-led group launches ballot petition to boost solar power in Florida,” *Tampa Bay Times* (Jan. 5, 2015), <http://www.tampabay.com/news/business/energy/republican-led-group-launches-ballot-petition-to-boost-solar-power-in/2212659>; William R. Levesque, “As utilities embrace solar, critics accuse them of trying to monopolize the sun,” *Tampa Bay Times* (March 4, 2016), <http://www.tampabay.com/news/business/energy/as-utilities-embrace-solar-critics-accuse-them-of-trying-to-monopolize-the/2268031>

⁴⁹ Sam Ross-Brown, “Tea Partiers and Progressives Unite Against ‘Deceptive’ Florida Ballot Initiative,” *The American Prospect* (May 5, 2016), <http://prospect.org/article/tea-partiers-and-progressives-unite-against-deceptive-florida-ballot-initiative>

customers who have installed rooftop solar to connect to the electrical power grid.⁵⁰ It would keep in place the prohibition on rooftop solar leasing, and would allow excess power produced through solar to be sold back only to the utility companies, not to other consumers.⁵¹

Table 6A: Corporate-Backed Proponents of the Solar Energy Subsidies and Personal Solar Use Initiative have Raised Ten Times the Money of the Initiative’s Opponents

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Consumers for Smart Solar	Support	\$17,743,897	\$21,523,917	128	82%
Floridians for Solar Choice	Oppose	\$49,790	\$2,131,362	673	2.34%
Solar Power Political Action Committee	Oppose	\$2,025	\$2,025	81	100%

Source: Florida Department of State⁵² (data accessed Sept. 19, 2016)

⁵⁰ William R. Levesque, “As utilities embrace solar, critics accuse them of trying to monopolize the sun,” *Tampa Bay Times* (March 4, 2016), <http://www.tampabay.com/news/business/energy/as-utilities-embrace-solar-critics-accuse-them-of-trying-to-monopolize-the/2268031>

⁵¹ *Ibid*

⁵² Campaign finance data available via Florida Department of State, <http://dos.elections.myflorida.com/campaign-finance/contributions/> (Accessed Sept. 19, 2016)

Table 6B: Top Corporate / Business Group Contributions Supporting or Opposing the Solar Energy Subsidies and Personal Solar Use Initiative

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Duke Energy	\$5,737,000	North Carolina	Consumers for Smart Solar	Support
2	Florida Power and Light Company (NextEra Energy)	\$5,495,000	Florida	Consumers for Smart Solar	Support
3	Tampa Electric Company (Emera Incorporated)	\$3,037,347	Florida (Nova Scotia, Canada)	Consumers for Smart Solar	Support
4	Gulf Power Company (Southern Company)	\$2,124,450	Florida (Georgia)	Consumers for Smart Solar	Support
5	Floridians for a Stronger Democracy*	\$450,000	Florida	Consumers for Smart Solar	Support
6	Florida Prosperity Fund	\$300,000	Florida	Consumers for Smart Solar	Support
7	The Voice of Florida Business PAC, Inc.	\$250,000	Florida	Consumers for Smart Solar	Support
8	National Rural Electric Cooperative Association	\$100,00	Virginia	Consumers for Smart Solar	Support
8	Powersouth Energy Cooperative	\$100,000	Alabama	Consumers for Smart Solar	Support
10	Florida Hispanic Chamber of Commerce	\$50,000	Florida	Consumers for Smart Solar	Support

Source: Florida Department of State (data accessed Sept. 19, 2016)

* Floridians for a Stronger Democracy sounds like a citizens' group, but it is in fact a PAC, mostly funded by corporations including Florida Power & Light Company, Duke Energy, Reynolds American and United States Sugar Corporation, as well as Hospital Corporation of America-affiliated PACs. It also received \$250,000 from billionaire activist and casino magnate Sheldon Adelson.

Oregon

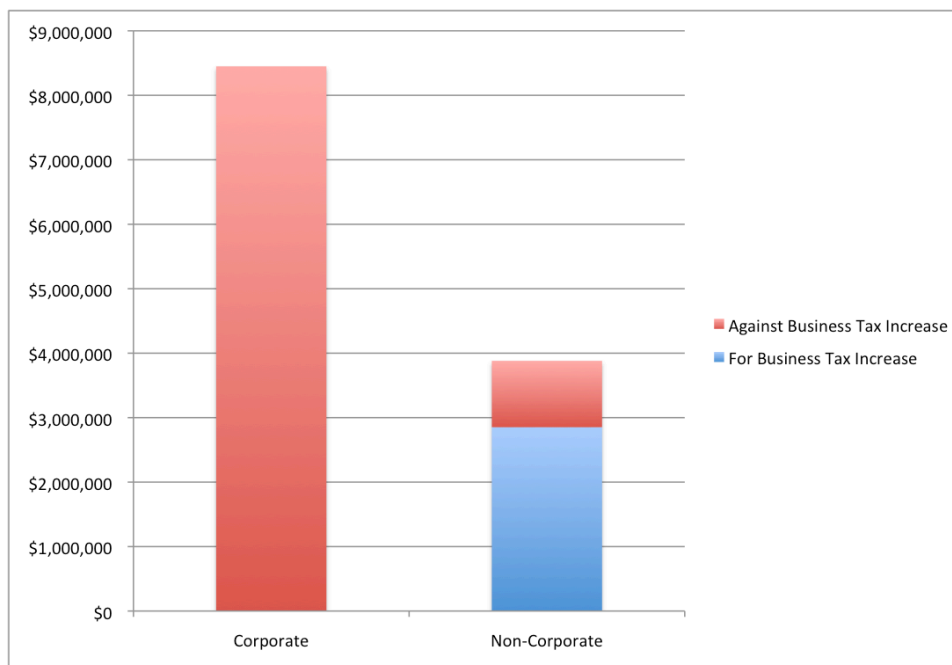
In Oregon, the Business Tax Increase (Measure 97) has, unsurprisingly, awakened opposition from business interests.

To qualify for the Oregon ballot, an initiated state statute must collect as many voters' signatures as six percent of the votes cast in the previous gubernatorial election. In 2016, the signature threshold is 88,184, an increase from previous years.⁵³

On Election Day 2016, voters will decide on a total of seven statewide ballot measures, including the Business Tax Increase.⁵⁴

Business Tax Increase (Measure 97)

The Business Tax Increase would impose a 2.5 percent tax on corporate gross sales receipts of more than \$25 million in the state of Oregon and raise an estimated \$3 billion a year for education, health care and senior services. The tax would be collected from out-of-state corporations and businesses with \$25 million or more in revenue.⁵⁵



The measure was initiated by union-aligned group Our Oregon after the failure of labor groups and business interests to align behind a compromise sales tax increase.⁵⁶ Proponents, led in particular

⁵³ Ballotpedia, "Signature requirements for ballot measures in Oregon," (Accessed Sept. 20, 2016), https://ballotpedia.org/Signature_requirements_for_ballot_measures_in_Oregon

⁵⁴ Ballotpedia, "Oregon 2016 ballot measures," (Accessed Sept. 20, 2016), https://ballotpedia.org/Oregon_2016_ballot_measures

⁵⁵ Kirk Johnson, "Measure 97, Seeking to Raise Corporate Taxes, Splits Oregon Voters," *The New York Times* (Sept. 8, 2016), <http://www.nytimes.com/2016/09/09/us/measure-97-seeking-to-raise-corporate-taxes-splits-oregon-voters.html>

⁵⁶ Nick Budnick, "Oregon heads for ballot brawl over tax increase," *East Oregonian* (Jan. 28, 2016), <http://www.eastoregonian.com/eo/capital-bureau/20160128/oregon-heads-for-ballot-brawl-over-tax-increase>

by public employee unions, turned in 130,000 signatures, and have ignited fierce opposition, with hundreds of businesses raising nearly triple the funds of the tax increase's supporters.⁵⁷

The corporate-backed opposition, organized as Defeat The Tax On Oregon Sales, has received contributions from major corporations, including out-of-state companies such as Equilon Enterprises (Shell), Comcast and Costco. The largest contributions from the measure's proponents came from SEIU Local 103 (\$755,926) and the Oregon Education Association (\$750,000), both to the Yes on 97 group.

Table 7A: Corporate-Backed Opponents of the Business Tax Increase have Raised Triple the Money of the Initiative's Proponents

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Defend Oregon*	Support	\$0	\$753,950	13	0%
Yes On 97	Support	\$0	\$1,511,150	19	0%
A Better Oregon VI	Support	\$250	\$587,395	153	0.04%
Create Jobs PAC*	Oppose	\$199,197	\$219,557	162	90.73%
Defeat The Tax On Oregon Sales	Oppose	\$8,249,735	\$9,258,049	584	89.11%

Source: Oregon Secretary of State's office⁵⁸ (data accessed Sept. 16, 2016)

*Because both Defend Oregon and Create Jobs PAC have contribution histories that precede the Business Tax Initiative, only contributions these groups received in 2015 and 2016 were included in this analysis.

⁵⁷ Dana Tims, "Backers of initiative to raise corporate taxes turn in signatures for ballot," *The Oregonian* (May 20, 2016), http://www.oregonlive.com/politics/index.ssf/2016/05/backers_of_initiative_to_raise.html

⁵⁸ Campaign finance data available via Oregon Secretary of State's office, <https://secure.sos.state.or.us/orestar/GotoSearchByMnPD.do> (Accessed Sept. 16, 2016)

Table 7B: Top Corporate / Business Group Contributions Supporting or Opposing the Business Tax Increase

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Albertsons-Safeway* (Portland Division)	\$500,000	Oregon (Idaho)	Defeat The Tax On Oregon Sales	Oppose
2	Lithia Motors, Inc.	\$455,000	Oregon	Defeat The Tax On Oregon Sales	Oppose
3	Cambia	\$380,000	Oregon	Defeat The Tax On Oregon Sales	Oppose
4	Comcast Cable	\$315,000	Pennsylvania	Defeat The Tax On Oregon Sales	Oppose
5	Automobile Dealers Association of Portland	\$250,000	Oregon	Defeat The Tax On Oregon Sales	Oppose
5	Equilon Enterprises LLC (Shell)	\$250,000	Texas	Defeat The Tax On Oregon Sales	Oppose
7	Phillips 66	\$217,000	D.C.	Defeat The Tax On Oregon Sales	Oppose
8	Membrane Holdings LLC	\$200,000	Oregon	Defeat The Tax On Oregon Sales	Oppose
9	PacifiCorp	\$175,000	Oregon	Defeat The Tax On Oregon Sales	Oppose
10	Costco Wholesale Corporation	\$125,000	Washington	Defeat The Tax On Oregon Sales	Oppose
10	Kroger/Fred Meyer	\$125,000	Ohio	Defeat The Tax On Oregon Sales	Oppose

**Owned and operated by Cerberus Capital Management, which is based in New York.*

Source: Oregon Secretary of State's office (data accessed Sept. 16, 2016)

South Dakota

South Dakota has the distinction of being the first in the U.S. to adopt the initiative and referendum process, in 1898.⁵⁹ Today it is the battleground for ten initiatives, including two competing initiatives that are focused on the short-term lending industry: the South Dakota Payday Lending Initiative (Initiated Measure 21) and the South Dakota Limit on Statutory Interest Rates for Loans (Constitutional Amendment U).

To qualify for the South Dakota ballot, a statute campaign must collect at as many voters' signatures as five percent of the votes cast in previous gubernatorial election – 13,871 in 2016. For a constitutional amendment campaign, the threshold is ten percent – 27,741 in 2016.⁶⁰ These thresholds are 12 percent lower than 2014.⁶¹

It should be noted that the state of South Dakota's comparatively poor campaign finance disclosure requirements make it difficult to assess campaign fundraising and spending during the course of an election. Campaign disclosures are required only three times per election cycle: pre-primary, post-primary and pre-general.⁶² The gap in data between the critical fundraising months between August 12 and October 28 creates relative vacuum of campaign finance data in the run up to Election Day.⁶³ Nevertheless, the available data reveal an early fundraising advantage for the corporate-backed opponent of the Payday Lending Initiative and the corporate-backed proponent of Limit on Statutory Interest Rates for Loans. So far, a single corporation, Select Management Resources LLC, a Georgia-based short-term lending company,⁶⁴ is the sole entity spending to defeat the Payday Lending initiative and pass the Limit on Statutory Interest Rates for Loans.

⁵⁹ Craig Holman, Ph.D., "An Assessment of New Jersey's Proposed Limited Initiative Process," Brennan Center for Justice at NYU School of Law (Dec. 31, 2000), <https://www.brennancenter.org/publication/assessment-new-jerseys-proposed-limited-initiative-process-0>, page 6

⁶⁰ Ballotpedia, "Signature requirements for ballot measures in South Dakota," (Accessed Sept. 20, 2016), https://ballotpedia.org/Signature_requirements_for_ballot_measures_in_South_Dakota

⁶¹ And 17 percent lower than 2010. *Ibid.*

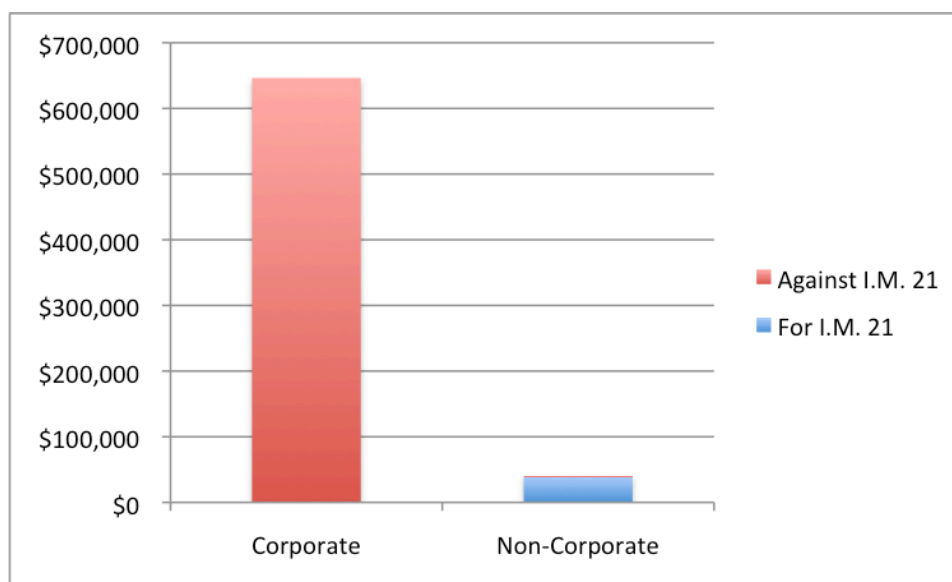
⁶² In 2016, May 27, August 12 and October 28. South Dakota Campaign Finance Reporting Guidelines, 2016-2017, https://sdsos.gov/elections-voting/assets/2016_Manual.pdf

⁶³ This particular weakness is highlighted by the example of the Defeat 22 campaign, which was formed to oppose Initiated Measure 22, the South Dakota Revision of State Campaign Finance and Lobbying Laws. Because Defeat 22's paperwork was not filed on July 1, 2016, the committee is not required to make any public campaign finance disclosures until October 28. Nevertheless, the potential for Defeat 22 to be the beneficiary of corporate money is clear, as the group's chair, Ben Lee, also is the state director for the South Dakota chapter of Americans for Prosperity, a group backed by the billionaire owners of Koch Industries, Charles and David Koch. See Laurie Bennett, "Tracking Koch Money and Americans for Prosperity" Forbes (March 31, 2012), <http://www.forbes.com/sites/lauriebennett/2012/03/31/tracking-koch-money-and-americans-for-prosperity/-1b293e481822>

⁶⁴ Marcus Stern, "Roderick Aycox, Title-Lending Leader, Donates To Pro-Romney Super PAC Restore Our Future" Reuters (March 15, 2012), http://www.huffingtonpost.com/2012/03/15/roderick-aycox-auto-title-loans-romney-super-pac_n_1348215.html

South Dakota Payday Lending Initiative (Initiated Measure 21)

The South Dakota Payday Lending Initiative⁶⁵ would cap the interest rate for short-term loans in South Dakota at 36 percent, effectively eliminating so-called “payday” lending in the state.⁶⁶



The group South Dakotans for Responsible Lending is the initiative’s primary supporter, with its largest contributions being an in-kind consulting gift from the Center for Responsible Lending worth \$5,824 and a financial gift of \$3,399 from Church at the Gate, a Sioux Falls Christian group.⁶⁷ Documents have been filed for the creation of another pro-initiative group, called Yes on 21, but no public report of contributions this groups may have received have been made available.

The single opponent to this initiative is Give Us Credit South Dakota, which the most recent public campaign finance reports show is being funded almost exclusively by Select Management Resources, which has contributed \$646,127.⁶⁸ Select Management Resources is a title-lender company (payday lenders that take for collateral a customer’s car title) which owns LoanMax, a short-term lender with operations in South Dakota. Select Management Resources and its owner, Roderick Aycox, have a

⁶⁵ Language of the Payday Lending Initiative filed with the South Dakota attorney general’s office, available at <https://sdsos.gov/elections-voting/assets/IM2136MoneyLenders.pdf>

⁶⁶ David Montgomery, “Payday loans could cease in South Dakota” *Argus Leader* (Dec. 14, 2014), <http://www.argusleader.com/story/news/politics/2014/12/13/payday-loans-cease-south-dakota/20387531/>

⁶⁷ Campaign Finance Disclosure Statement (SDCL 12-27) filed by South Dakotans for Responsible Lending available via the South Dakota secretary of state, <https://sdcfr.sdsos.gov/Document.aspx?DocumentID=3049&type=img>; Church at the Gate website available at <http://churchatthegate.com/home>

⁶⁸ A single unitemized donation of \$100 is included in the publicly filed documents with no name associated with it. See Campaign Finance Disclosure Statement filed by Give Us Credit South Dakota available via the South Dakota secretary of state, <https://sdcfr.sdsos.gov/Document.aspx?DocumentID=3019&type=img>

history of political activity, including \$300,000 in contributions to Restore Our Future, a super PAC that supported Gov. Mitt Romney's 2012 presidential bid.⁶⁹

Select Management Resources sued South Dakota Attorney General Marty Jackley to have the Payday Lending Initiative removed from the ballot.⁷⁰ The South Dakota Supreme Court unanimously ruled against the company and allowed the initiative to proceed to the ballot.⁷¹

Table 8A: Corporate-Backed Opponents of the Payday Lending Initiative have Raised 16 Times More Money Than the Initiative's Opponents

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
Yes on 21	Support	\$0	\$0	0	n/a
South Dakotans for Responsible Lending	Support	\$0	\$40,121	28	0%
Give Us Credit South Dakota	Oppose	\$646,127	\$646,227	3	99.9%

Source: South Dakota Secretary of State's office⁷² (data accessed Aug. 19, 2016)

Table 8B: Top Corporate / Business Group Contributions Supporting or Opposing the Payday Lending Initiative

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Select Management Resources LLC	\$646,127	Georgia	Give Us Credit South Dakota	Oppose

Source: South Dakota Secretary of State's office (data accessed Aug. 19, 2016)

South Dakota Limit on Statutory Interest Rates for Loans (Constitutional Amendment U)

The South Dakota Limit on Statutory Interest Rates for Loans would amend the state's constitution so that there would be no limit on the amount of interest a lender may charge a borrower, so long as

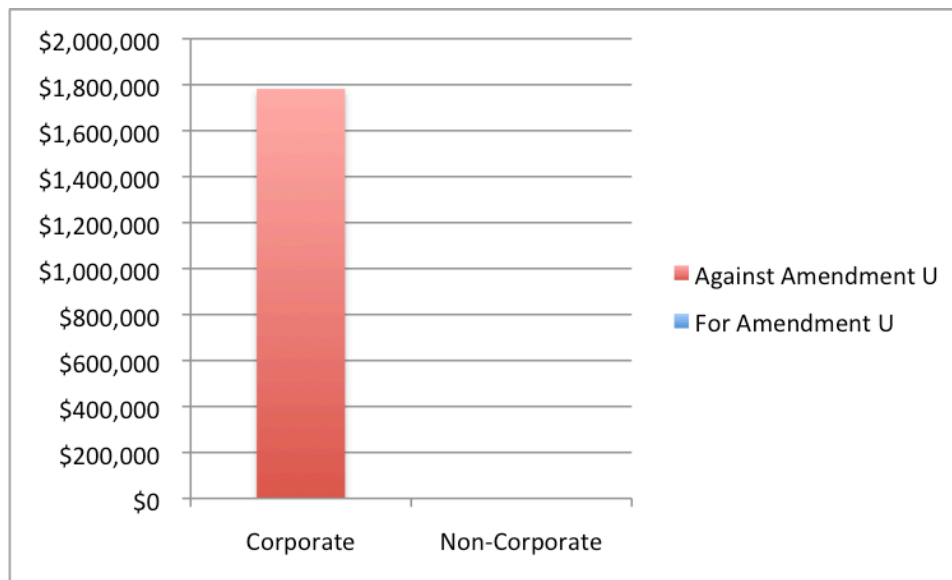
⁶⁹ Data from the Center for Responsive Politics show Aycox supporting both Republican and Democratic parties and candidates. Aycox has apparently not contributed toward electing any presidential candidates in 2016. See <http://www.opensecrets.org/indivs/search.php?sort=A&name=Rod+Aycox&state=&zip=&employ=&cand=&soft=&cycle=All>

⁷⁰ Lacey Louwagie, "Payday Lender Calls 36% Rate Cap Impossible" Courthouse News, (June 11, 2015), <http://www.courthousenews.com/CNSNEWS/Story/Index/79515>

⁷¹ Lacey Louwagie, "Payday Lending Cap Will Go to S.D. Voters" Courthouse News, (April 4, 2016), <http://www.courthousenews.com/2016/04/04/payday-lending-cap-will-go-to-s-d-voters.htm>

⁷² Campaign finance data available via South Dakota Secretary of State's office, <https://sdcdfr.sdsos.gov/> (Accessed Aug. 19, 2016)

the interest rate is agreed to in writing; if no written agreement is made, the annual interest rate is capped at 18 percent.⁷³



As written, if voters approve both payday lending initiatives, Constitutional Amendment U would supercede Initiated Measure 21, effectively nullifying the campaigns effort to limit interest rates and making enacting future interest limits extremely difficult.⁷⁴

The corporate-backed South Dakotans for Fair Lending formed in an apparent effort to undermine South Dakotans for Responsible Lending, the initiative campaign group supporting the 36 percent interest rate cap.⁷⁵ This initiative also faced a legal challenge,⁷⁶ but ultimately prevailed.

Like Give Us Credit South Dakota, South Dakotans for Fair Lending is funded exclusively by Select Management Resources and has received more than \$1.7 million from the company. Another group, No On 'U'sury, has formed to oppose this initiative, but no public report of funds this group has received are available.

⁷³ Language of the constitutional amendment filed with the South Dakota attorney general's office, available at https://sdsos.gov/elections-voting/assets/2016_CA_LimitingtheAbilitytoSetStatutoryInterestRatesforLoans.pdf

⁷⁴ See Nicole Tschetter, "Payday loans front and center on SD November ballot," KOTA-TV News (Sept. 19, 2016), <http://www.kotatv.com/content/news/Payday--393470051.html>

⁷⁵ Anndrea Anderson, "Hildebrand: 18% Payday Loan Petition Backed By Lending Companies" KDLT News (Sept. 16, 2015), <http://www.kdlt.com/news/local-news/hildebrand-18-payday-loan-petition-backed-by-lending-comapnies/35315306>

⁷⁶ Ronald Hawkins, "Constitutional Amendment dealing with interest rate caps challenged" KSFY (Feb. 3, 2016), <http://www.ksfy.com/home/headlines/Constitutional-Amendment-dealing-with-interest-rate-caps-challenged--367596141.html>

Table 9A: Corporate-Backed Proponents of Constitutional Amendment U have Outraised Their Opponents by \$1.7 Million to Nothing

Group Name	Support / Oppose	Corporate / Business Group Contributions	Total Contributions	Number of Contributions	% Corporate / Business Group Contributions
South Dakotans for Fair Lending	Support	\$1,781,612	\$1,781,612	2	100%
No On 'U'sury	Oppose	\$0	\$0	0	n/a

Source: South Dakota Secretary of State's office (data accessed Aug. 19, 2016)

Table 9B: Top Corporate / Business Group Contributions Supporting or Opposing Constitutional Amendment U

Rank	Corporation / Group	Contribution Amount	Headquarters State	Recipient Group	Support / Oppose
1	Select Management Resources LLC	\$1,781,612	Georgia	South Dakotans for Fair Lending	Support

Source: South Dakota Secretary of State's office (data accessed Aug. 19, 2016)

A Note on Gambling Initiatives

In 2014, nearly \$60 million was spent on initiatives for casinos or other efforts to expand gaming businesses in states, and the top corporate spender among all ballot initiatives was Mile High USA, which contributed \$19.8 million toward a Colorado initiative to expand gambling in that state (which ultimately failed).⁷⁷

In 2016, there will be gambling-related initiatives on the ballot in four states: Arkansas, Massachusetts, New Jersey and Rhode Island. A total of more than \$2.1 million in contributions supporting these initiatives has been reported so far from these states (except New Jersey, where committees spending for or against initiatives are not required to file campaign finance reports until mid-October). In each case where contributions are disclosed, the primary, if not only, contributor to campaigns supporting these initiatives is the business that will benefit from its passage.

⁷⁷ Liz Essley White, "Big business crushed ballot measures in 2014," The Center for Public Integrity (Feb. 5, 2015), <https://www.publicintegrity.org/2015/02/05/16693/big-business-crushed-ballot-measures-2014>

Table 10: Gambling Initiatives and Contributions

State	Initiative	Total Supporting Contributions	Top Contributor
Ark.	Three New Casinos Amendment (Issue 5)	\$1,027,959	Cherokee Nation Businesses, LLC
Mass.	Authorization of a Second Slots Location (Question 1)	\$390,000	Capital Productions
R.I.	Rhode Island Twin River Casino in Tiverton (Question 1)	\$774,580	Twin River Management Group
N.J.	Allowance for Casinos in Two Additional Counties (Public Question 1)	n/a	n/a

Source: *Ballotpedia*.⁷⁸

Conclusion

Voters will have the final say on how the initiatives analyzed in this report will fare. But even if corporate interests are defeated in every instance analyzed in this report, their willingness to spend vast sums to oppose reforms that may impact their profits undermines the democratic promise of the initiative and referenda.

Corporate spending on political advertising as well as increasingly aggressive campaign tactics such as decoy petitions and “decline to sign” efforts demonstrate business interests’ unique ability to transform financial power into political power. The result is that proponents of reforms that restrict corporate power – including pressing economic, environmental and health care reforms that Americans overwhelmingly support⁷⁹ – face an enormous uphill struggle.

There are policies, however, that can help restore the balance of power so that citizens, and not corporations, have greater power in democratic decision-making. First, states can improve disclosure policies so the public can be informed about who (or, in the case of corporations, what) is spending money to influence votes. Some states have been better than others at enacting robust disclosure laws; the Center for Public Integrity’s “State Integrity Report,” for which transparency in “political financing” is a major metric and in which only three states rank higher than D+, shows

⁷⁸ Arkansas: [https://ballotpedia.org/Arkansas_Three_New_Casinos_Amendment_Issue_5_\(2016\)](https://ballotpedia.org/Arkansas_Three_New_Casinos_Amendment_Issue_5_(2016)) ;

Massachusetts:

[https://ballotpedia.org/Massachusetts_Authorization_of_a_Second_Slots_Location_Question_1_\(2016\)](https://ballotpedia.org/Massachusetts_Authorization_of_a_Second_Slots_Location_Question_1_(2016)) ;

Rhode Island: [https://ballotpedia.org/Rhode_Island_Twin_River_Casino_in_Tiverton_Question_1_\(2016\)](https://ballotpedia.org/Rhode_Island_Twin_River_Casino_in_Tiverton_Question_1_(2016)) ;

New Jersey:

[https://ballotpedia.org/New_Jersey_Allowance_for_Casinos_in_Two_Additional_Counties_Public_Question_1_\(2016\)](https://ballotpedia.org/New_Jersey_Allowance_for_Casinos_in_Two_Additional_Counties_Public_Question_1_(2016)). New Jersey data expected to be available in mid-October via the New Jersey Campaign Financing and Lobbying Database, <http://www.elec.state.nj.us/publicinformation.htm>

⁷⁹ Robert Weissman, “Americans Agree; It’s Corporate Power That’s In Our Way,” *The Huffington Post* (April 9, 2016) http://www.huffingtonpost.com/robert-weissman/americans-agree-its-corpo_b_9650318.html

there is plenty of room for improvement here.⁸⁰ Second, there are policies designed specifically to enhance the power non-corporate grassroots petitioners in the ballot initiative process. In California, a bill⁸¹ to enact this kind of reform has passed that state's legislature and is now awaiting Gov. Jerry Brown's signature. This law would require groups gathering petition signatures for ballot initiatives to ensure that 5 percent of the signatures they gathered are being circulated by volunteers instead of paid signature collectors. In effect, it would ensure that the only initiatives and referenda that qualify for the ballot are those that enjoy true grassroots support.

Finally, a constitutional amendment such as the Democracy For All Amendment,⁸² one among several⁸³ that have been proposed to "overturn *Citizens United*," also would have the effect of overturning *Bellotti*. The amendment would empower states to place limits on corporate political spending, including by prohibiting it, thus ensuring that corporate interests (that is, artificial entities with some degree of legal personhood status) are unable to wield disproportionate influence over U.S. democracy relative to natural persons. Of course, passing a constitutional amendment also is an uphill struggle, as it requires a 2/3 vote of both houses of Congress and ratification by 3/4 of state governments or a convention called by 2/3 of the states and ratified by 3/4. Nevertheless, great strides have been made toward advancing such an amendment. In 2014, a majority of U.S. senators voted in favor of the Democracy For All Amendment. Seventeen states (including D.C.) have passed resolutions supporting an amendment, as have more than 700 local governments.⁸⁴

The U.S. experience shows that the concentrated wealth that corporations deploy in politics dramatically distort our democratic institutions. In November, we will see how democracy fares against these and other corporate attacks. We will then make another account of the impacts of corporate political spending on ballot measures, which will provide a better measure of the work that must be done to repair our damaged democracy.

⁸⁰ Nicholas Kusnetz, "Only three states score higher than D+ in State Integrity Investigation; 11 flunk," Center for Public Integrity (Nov. 9, 2015), <https://www.publicintegrity.org/2015/11/09/18693/only-three-states-score-higher-d-state-integrity-investigation-11-flunk>

⁸¹ S.B. 1094 – full text of the legislation available here: http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1051-1100/sb_1094_bill_20160830_enrolled.html (Accessed Sept. 22, 2016)

⁸² S.J. Res. 19 in the 113th Congress. See <https://www.congress.gov/bill/113th-congress/senate-joint-resolution/19> (Accessed Sept. 22, 2016)

⁸³ List of constitutional amendments proposed to address *Citizens United* available at <http://united4thepeople.org/amendments/> (Accessed Sept. 23, 2016)

⁸⁴ See <http://democracyisforpeople.org/infographic.cfm> (Accessed Sept. 23, 2016)