



February 15, 2023

The Honorable Karl Rhoads
Chair, Senate Committee on Judiciary
Hawaii State Legislature

The Honorable Mike Gabbard
Vice Chair, Senate Committee on Judiciary
Hawaii State Legislature

Re: Statement in Support of S.B. 997

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee on Judiciary,

Campaign Legal Center (CLC) respectfully submits this statement to the Committee in support of S.B. 997, a bill to require noncandidate committees making only independent expenditures to disclose the original sources of their campaign funds. CLC is a nonpartisan, nonprofit organization dedicated to protecting and strengthening democracy across all levels of government. Since the organization's founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court, as well as in numerous other federal and state court cases. Our work promotes every American's right to participate in the democratic process.

CLC has carefully reviewed S.B. 997, and it is a well-crafted and constitutional piece of legislation. The bill is consistent with well-established U.S. Supreme Court precedent affirming the importance of the disclosure of campaign spending to "insure that the voters are fully informed about the person or group who is speaking."¹

The U.S. Supreme Court has long recognized that transparency in election spending improves the functioning of government and its responsiveness to the public. In its foundational campaign finance decision, *Buckley v. Valeo*, the Court upheld disclosure laws enacted following the Watergate scandal and identified three important interests advanced by campaign finance disclosure: (1) providing voters with information necessary to evaluate candidates and make informed decisions; (2) deterring corruption and the appearance of corruption by shining a light on campaign finances; and (3) aiding enforcement of other campaign finance laws, like contribution limits.²

¹ *Citizens United v. FEC*, 558 U.S. 310, 348 (2010) (internal citations and quotation marks omitted).

² *Buckley v. Valeo*, 424 U.S. 1, 66-68 (1976) (per curiam).

Since *Buckley*, the Court has consistently reaffirmed the constitutionality of campaign finance disclosure laws. For example, in *Citizens United v. FEC*, the Court again upheld—by an 8-to-1 vote—the constitutionality of a federal election disclosure law, stating that “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”³ More recently, federal courts have repeatedly affirmed the constitutionality and importance of state election disclosure laws.⁴ As the U.S. Court of Appeals for the First Circuit recently explained, “a well informed electorate is as vital to the survival of a democracy as air is to the survival of human life”⁵

But *Citizens United* also opened the door to unlimited corporate spending on elections: wealthy special interests can funnel their campaign spending through webs of nonprofits and other entities that do not have to publicly disclose their donors, leaving voters in the dark about who is funding political ads.⁶ S.B. 997 would protect and strengthen Hawaiians’ right to know who is spending big money to influence their votes by requiring large independent spenders to publicly disclose the original sources of the money they spend in Hawaii elections. The bill also updates Hawaii’s requirement to identify top contributors in on-ad disclaimers, ensuring the public knows the largest original sources of funds behind election ads they see.⁷ S.B. 997 follows in the footsteps of recently passed election disclosure laws across the country, like Arizona’s Voters’ Right to Know Act that overwhelming passed at the ballot this past November,⁸ that seek to end secret spending by revealing the original sources of big money spent in state and local elections.

CLC respectfully urges the Committee to support S.B. 997. Thank you for the opportunity to submit this statement in support of this important legislation. If you have further questions, please do not hesitate to contact us.

Respectfully submitted,

/s/

Aaron McKean
Legal Counsel
Campaign Legal Center

³ *Citizens United*, 558 U.S. at 369.

⁴ See, e.g., *Gaspee Project v. Mederos*, 13 F.4th 79 (1st Cir. 2021) *cert. denied*, 142 S. Ct. 2647 (2022); *Smith v. Helzer*, No. 3:22-CV-00077-SLG, 2022 WL 2757421, at *4 (D. Alaska July 14, 2022); *San Franciscans Supporting Prop B v. Chiu*, No. 22-CV-02785-CRB, 2022 WL 1786573, at *4 (N.D. Cal. June 1, 2022).

⁵ *Gaspee Project*, 13 F.4th at 95.

⁶ Dark money groups spent more than \$1 billion in federal elections alone. Anna Massoglia & Karl Evers-Hillstrom, ‘Dark Money’ Topped \$1 Billion in 2020, Largely Boosting Democrats, CTR. FOR RESPONSIVE POLITICS (Mar. 17, 2021), <https://www.opensecrets.org/news/2021/03/one-billion-dark-money-2020-electioncycle/>. The effects of dark money spending can be even more pronounced at the state level. See CHISUN LEE, ET AL., BRENNAN CTR. FOR JUSTICE, SECRET SPENDING IN THE STATES 3, 10-11 (2016), <https://www.brennancenter.org/publication/secret-spending-states>.

⁷ These types of on-ad disclaimers “serve the salutary purpose of helping the public to understand where ‘money comes from.’” *Gaspee Project*, 13 F.4th at 95 (citing *Buckley v. Valeo*, 424 U.S. at 66).

⁸ Elizabeth Shimek, *Arizona Leads on Stopping Secret Spending*, CAMPAIGN LEGAL CTR. (Nov. 29, 2022), <https://campaignlegal.org/update/arizona-leads-stopping-secret-spending>.