April 20, 2026

The Honorable Lindsey LaPointe
House of Representatives
Illinois General Assembly

Re: Support for H.B. 5154

Dear Representative LaPointe,

I am writing to express Campaign Legal Center's (CLC) support for H.B. 5154, a bill that would require the disclosure of the original sources of big spending in Illinois elections and strengthen Illinois' coordination laws.

CLC is a nonpartisan legal organization dedicated to solving the wide range of challenges facing American democracy. 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. CLC fights for every American's freedom to vote and participate meaningfully in the democratic process, particularly Americans who have faced political barriers because of race, ethnicity or economic status.

Sixteen years ago, in *Citizens United v. FEC*, the Supreme Court ruled that corporations and unions have a constitutional right to raise and spend unlimited amounts to influence elections as long as such spending is independent from and not coordinated with candidates. Since that 2010 decision, outside election spending—i.e., election spending by groups that are largely exempt from legal limits on the sources or amounts they spend to influence elections—has skyrocketed, increasing from $205 million in 2010 to over $4.2 billion in 2024.[1] In Illinois, outside spending has followed the same trend.[2] Some outside spenders have used methods designed to evade disclosure laws, allowing wealthy donors and special interests to hide the true source of money used to influence elections.[3] As big

[1] OpenSecrets, *Outside Spending*, https://www.opensecrets.org/outside-spending/ (accessed Mar. 18, 2026).
[2] FollowTheMoney.org Chart of Independent Spending in Illinois, 2012-2022, https://www.followthemoney.org/show-me?dt=2&is-s=IL&f-fc=2,3#[{1|gro=is-y [https://perma.cc/L7SP-VGRL] (last accessed Mar. 18, 2026).
[3] *See, e.g.*, BRENDAN FISCHER & MAGGIE CHRIST, CAMPAIGN LEGAL CTR., DIGITAL DECEPTION: HOW A MAJOR DEMOCRATIC DARK MONEY GROUP EXPLOITED DIGITAL AD LOOPHOLES IN THE 2018 ELECTION, (2019) https://campaignlegal.org/sites/default/files/2019-03/FINAL%20Majority%20Forward%20Issue%20Brief.pdf; *see also* Anna Massoglia, *Outside*

outside spending increasingly impacts elections, campaign finance laws must protect the integrity of our elections by ensuring that outside spenders are not bankrolling candidates and that voters have access to information about which wealthy donors and special interests are spending big money to influence their votes.

CLC has carefully reviewed H.B. 5154, and it is a well-crafted and constitutional piece of legislation. As explained below, H.B. 5154 would ensure real transparency for big independent spending in Illinois elections by requiring the disclosure of the original sources of money used for that spending. The bill also updates Illinois' disclosure law to capture more types of election-related spending and to ensure political ads provide viewers with information about the original sources of funds used to pay for those ads. These updates are consistent with well-established U.S. Supreme Court precedent affirming the importance of transparency in campaign spending to "insure that the voters are fully informed about the person or group who is speaking."[4]

H.B. 5154 also broadens Illinois' coordination law to comprehensively account for the ways in which candidates and outside groups coordinate their spending. The bill would clarify and expand the types of conduct that constitute coordination and the kinds of election spending subject to coordination rules, thereby preventing outside groups from circumventing contribution limits. As the U. S. Supreme Court has recognized, regulating coordinated expenditures advances the same anti-corruption interests as limits on contributions, and "prevent[s] attempts to circumvent the [limits] through prearranged or coordinated expenditures amounting to disguised contributions."[5]

I. H.B. 5154 would strengthen election transparency in Illinois elections by ensuring voters know who is really spending big money spent to influence their votes.

H.B. 5154 revises Illinois campaign finance transparency law by requiring big independent spenders to disclose the original sources of big money used to pay for independent campaign spending in Illinois elections. These revised transparency requirements promote First Amendment interests by providing the public with the information necessary to engage in democratic self-government and to hold elected representatives accountable.

A. H.B. 5154 would reveal the original sources of large contributions spent to influence Illinois elections.

Under current Illinois law, when groups raise and spend money in state elections, they must register with the Illinois Board of Elections and file public reports disclosing

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spending on 2024 elections shatters records, fueled by billion-dollar 'dark money' infusion, OPENSECRETS (Nov. 5, 2024), https://www.opensecrets.org/news/2024/11/outside-spending-on-2024-elections-shatters-records-fueled-by-billion-dollar-dark-money-infusion. 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/our-work/research-reports/secret-spending-states.

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

[5] *FEC v. Colo. Republican Fed. Campaign Committee*, 533 U.S. 431, 456 (2001).

basic information about their political spending and direct donors of more than $150.[6] Illinois law also requires political committees to include a disclaimer on their political ads stating who paid for the ad.[7] But wealthy donors and special interests who prefer to conceal their own funding of election spending may funnel their money through other entities that then pass it along to the groups that ultimately pay for political ads, thus hiding from voters their true identity as the source of big money spent in Illinois elections.[8] This kind of secret spending, sometimes called "dark money," deprives voters of critical information about who is really paying for election-related messaging. As Speaker of the House Welch has recognized, U.S. Supreme Court decisions "have allowed dark money into our politics,"[9] and H.B. 5154 is an opportunity to empower Illinois voters by shining a light on the sources of dark money influencing Illinois elections.

H.B. 5154 would end secret spending by wealthy donors and special interests in Illinois elections by requiring more transparency for big independent spenders—specifically, any person spending more than $10,000 on independent campaign spending in an election cycle. These big independent spenders—called "covered persons" in the bill—must disclose the sources of "original funds" exceeding $5,000 received during the election cycle, as well as any intermediaries that passed the money along before reaching the spender.[10] "Original funds" generally means the personal funds of individuals or the business income of entities. In other words, when wealthy donors and special interests funnel big contributions through one or more entities to a covered person, H.B. 5154 will require the disclosure of those original sources and intermediaries, not just the ultimate entity that paid directly for the campaign expenditure.

H.B. 5154 also would incorporate this enhanced transparency for outside spending in on-ad disclaimers when covered persons run political ads, ensuring that voters know who is really funding electoral messaging. Although identifying the sponsor of a political ad is important, it does not tell voters the whole story, especially when those ads are sponsored by entities that receive significant funding from a small group of wealthy donors or a special interest group. Under the bill, disclaimers on ads run by big campaign spenders would include, in addition to the sponsor of the ad, the sponsor's top three contributors of original funds.

To facilitate the disclosure of original sources, of funds spent on elections, H.B. 5154 establishes a notice and opt-out system, requiring each big independent spender to notify

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[6] 10 Ill. Comp. Stat. §§ 5/9-10 *and* 11.
[7] 10 Ill. Comp. Stat. §§ 5/9-8 *and* 9.5.
[8] *See, e.g.*, Greg Hinz, *How dark money helped the only Republican Cook County official win re-election*, CRAIN'S CHI. BUS. (Nov. 28, 2022) https://www.chicagobusiness.com/juice/dark-money-helps-cook-county-commissioner/; *see also* Ray Long & Rick Pearson, *Big money floods Illinois campaigns with few rules and little enforcement*, CHI. TRIB. (Sept. 1, 2024), https://www.chicagotribune.com/2024/09/01/illinois-corruption-campaign-finance/.
[9] Ryan Denham, *During stop in Normal, Speaker Chris Welch talks about changes to the SAFE-T Act and competing in the 91st House District*, WGLT (Oct. 23, 2022), https://www.wglt.org/local-news/2022-10-23/during-stop-in-normal-speaker-chris-welch-talks-about-changes-to-the-safe-t-act-and-competing-in-the-91st-house-district.
[10] To streamline administration, a covered person required to report sources of original funds that is already registered as a political committee with the Board of Elections may include its original source information in its regular reports to the Board.

donors that their donations may be used for election spending in Illinois and allowing donors to opt out of having their donations spent for such purposes. This system enables donors to control whether their donations to groups engaged in different types of spending will be spent on elections. If donors opt out, their donations will not be used on elections and, therefore, those donors will not be included in the covered person's disclosure reports. If a donor receives notice that their donations may be used for election spending and does not opt out within 21 days—or affirmatively opts in to allow their donations to be spent on elections—their donations become available for election spending and subject to H.B. 5154's disclosure and reporting requirements.

The transparency requirements in H.B. 5154 would also apply to large contributions received by candidates or political party committees who accept contributions in excess of $12,000 in a calendar year from one or more contributors. Under H.B. 5154, candidates and political parties receiving such large contributions would be required to establish a notice and opt-out system and disclose the sources of original funds of their large contributions in a similar manner as described above for big independent spenders.

B. Under H.B. 5154, Illinois transparency requirements would apply to more election-related spending.

Crucially, the bill provides more transparency for Illinois voters by updating the kinds of election-related spending that are subject to disclosure. Currently, for example, Illinois law narrowly defines the types of communications subject to disclosure requirements to only those communications that expressly advocate for or against a candidate or measure, or ads that are run close to the election and are the equivalent of express advocacy.[11]

By only requiring reporting of expenditures that include express advocacy or its functional equivalent (when run close to an election), current law effectively permits outside spenders to pay for advertisements that are designed to influence elections while avoiding disclosure simply by avoiding explicit words of advocacy. In light of the extensive record of how this approach allowed for massive amounts of unregulated election spending in federal elections, Congress amended federal campaign finance laws more than two decades ago—passing the Bipartisan Campaign Reform Act (BCRA)—to address the same concerns.[12] In upholding those amendments against a constitutional challenge, the Supreme Court noted, "[p]ublic communications" that promote or attack a candidate for federal office . . . also undoubtedly have a dramatic effect on federal elections."[13]

H.B. 5154 would close this loophole by extending transparency requirements to advertisements that promote, support, criticize, or oppose a candidate or question of public policy to be submitted to the voters. In addition, H.B. 5154 would explicitly require the disclosure of the full range of election-influencing spending, including spending for partisan voter and campaign activity, such as partisan voter registration drives and any spending to

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[11] 10 Ill. Comp. Stat. §§ 5/9-1.14 *and* 1.15.
[12] *McConnell v. FEC*, 540 U.S. 93, 169-170 (2003) ("'[T]he hearings provided overwhelming evidence that the twin loopholes of soft money and bogus issue advertising have virtually destroyed our campaign finance laws, leaving us with little more than a pile of legal rubble.'") (quoting S. Rep. No. 105-167, vol. 3, p. 4535 (1998) (additional views of Sen. Collins)).
[13] *Id.* at 169.

support campaign expenditures, like conducting research, design, and polling for the preparation of political advertising.

B. H.B. 5154's transparency provisions promote First Amendment interests and are consistent with long-standing U.S. Supreme Court precedent.

Voters have the right to know who is funding the political messages they receive and H.B 5154 would make that right a reality for Illinois voters. Knowing who is spending big money to support a campaign helps voters determine who supports which positions and why. As the U.S. Supreme Court has repeatedly recognized in decades of decisions upholding campaign finance disclosure provisions:

> [D]isclosure provides the electorate with information as to where political campaign money comes from and how it is spent by the candidate in order to aid the voters in evaluating those who seek federal office. It allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches.[14]

The Court's precedents have long recognized that transparency about 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.[15]

Since *Buckley*, the Court has consistently reaffirmed the constitutionality of campaign finance disclosure laws.[16] In *McConnell v. FEC*, the Court upheld the BCRA's expanded disclosure system, which was designed to address the problem of "independent groups [who] were running election-related advertisements 'while hiding behind dubious and misleading names.'"[17] Notably, in *Citizens United v. FEC*, even as the Court struck down limits on corporate election spending, the Court again upheld—by an 8-to-1 vote—the constitutionality of federal election disclosure laws that applied to that spending, stating

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[14] *Buckley v. Valeo*, 424 U.S. 1, 66-68 (1976) (per curiam) (internal quotation marks and footnote omitted).
[15] *Id.*
[16] *See McConnell,* 540 U.S. at 189-202 (approving disclosure rules for "electioneering communications," a type of political ad that evaded disclosure requirements under *Buckley*'s narrow interpretation of "express advocacy"); *Citizens United*, 558 U.S. at 366-71; *John Doe No. 1 v. Reed*, 561 U.S. 186 (2010); *see also First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 792 n.32 (1978) ("Identification of the source of advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected.").
[17] *McConnell*, 540 U.S. at 197.

that "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."[18]

Following *Citizens United*, the federal courts of appeals have continued to affirm the constitutionality and importance of state election disclosure laws.[19] In 2023, the U.S. Court of Appeals for the Ninth Circuit upheld the constitutionality of a San Francisco law requiring independent spenders and ballot issue committees to identify certain "secondary contributors" in disclaimers on political ads.[20] Similar to H.B. 5154's requirement for independent spenders to include top donors of original funds in their on-ad disclaimers, San Francisco's secondary contributor requirement is "designed to go beyond the ad hoc organizations with creative but misleading names and instead expose the actual contributors to such groups."[21] In upholding this law, the Ninth Circuit found that the city's requirement was substantially related to the governmental interest in informing the electorate "[b]ecause the interest in learning the source of funding for a political advertisement extends past the entity that is directly responsible."[22]

More recently, both federal and state courts in Arizona have upheld Arizona's Voters' Right to Know Act (VRKA) against federal First Amendment and related Arizona constitutional challenges.[23] The VRKA contains similar requirements to H.B. 5154: Under the VRKA, any person that spends "more than $50,000 in statewide campaigns or more than $25,000 in any other type of campaigns" in Arizona must disclose donors and intermediaries who transfer more than $5,000 in original funds during the election cycle.[24] To facilitate this disclosure, Arizona's law includes notice, opt-out, and recordkeeping requirements similar to those in H.B 5154.[25] And like H.B. 5154, Arizona's VRKA requires

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[18] *Citizens United*, 558 U.S. at 369.

[19] *See, e.g.*, *No on E, San Franciscans Opposing the Affordable Housing Production Act v. Chiu*, 85 F.4th 493 (9th Cir. 2023); *Gaspee Project v. Mederos*, 13 F.4th 79 (1st Cir. 2021); *Indep. Inst. v. Williams*, 812 F.3d 787 (10th Cir. 2016); *Yamada v. Snipes*, 786 F.3d 1182 (9th Cir. 2015); *Del. Strong Families v. Attorney Gen. of Del.*, 793 F.3d 304 (3d Cir. 2015); *Vt. Right to Life Comm., Inc. v. Sorrell*, 758 F.3d 118 (2d Cir. 2014); *Justice v. Hosemann*, 771 F.3d 285 (5th Cir. 2014); *Worley v. Fla. Sec'y of State*, 717 F.3d 1244 (11th Cir. 2013); *Real Truth About Abortion Inc. v. FEC*, 681 F.3d 544 (4th Cir. 2012); *Ctr. for Individual Freedom v. Madigan*, 697 F.3d 464 (7th Cir. 2012); *Nat'l Org. for Marriage v. McKee*, 649 F.3d 34 (1st Cir. 2011); *Human Life of Wash. v. Brumsickle*, 624 F.3d 990 (9th Cir. 2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc).

[20] *No on E, San Franciscans Opposing the Affordable Housing Production Act v. Chiu*, 85 F.4th 493, 505 (9th Cir. 2023).

[21] *Id.* at 506 (internal citations and quotation marks omitted).

[22] *Id.*

[23] *See Ams. for Prosperity v. Meyer*, 724 F. Supp. 3d 858 (D. Ariz. 2024), *argued*, No. 24-2933 (9th Cir. May 15, 2025); *Ctr. for Ariz. Policy v. Ariz. Sec'y of State*, 560 P.3d 923 (Ariz. Ct. App. 2024), *argued*, No. CV-24-0295-PR (Ariz. Sept. 11, 2025). In a related case, an Arizona trial court ruled that a portion of the law was unconstitutional under the Arizona Constitution on separation of powers grounds. *Montenegro v. Fontes*, CV-2023-011834, slip op. at 3 (Ariz. Super. Ct. Feb. 19, 2026). The provision would have limited the Arizona legislature's power to pass laws prohibiting or limiting administrative rules or enforcement actions by the agency implementing the VRKA. Because the court concluded the provision was severable, the ruling did not impact the disclosure requirements of the VRKA. *Id.* at 6. Importantly, there is no similar provision in H.B. 5154.

[24] Ariz. Rev. Stat. §§ 16-971(7), 16-973(A)(6), (7).

[25] Ariz. Rev. Stat. § 16-972.

covered persons to name their three largest donors of original funds in their on-ad disclaimers.[26]

In wholly upholding the VRKA against facial challenges under the First Amendment, the federal district court found that Arizona's law "is supported by a strong governmental interest" in informing the electorate about who is really funding political ads "and imposes only minimal burdens."[27] Of particular note, the court concluded that requiring the disclosure of the "entire of chain of donors" was narrowly tailored to promoting an informed electorate because "[i]dentifying the actual funders of [political] communications cannot be achieved any other way."[28]

Finally, the Supreme Court has long recognized that laws cannot constitutionally discriminate against people who are of low socioeconomic status.[29] This principle is especially critical in the context of elections and voting rights.[30] Political power and influence should not be allocated based on wealth, and while *Citizens United* protects wealthy donors and special interests' right to spend unlimited amounts independently to influence elections, disclosure laws protect the countervailing right of the electorate to assess the credibility and merits of the political messages paid for by that spending.

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In the wake of *Citizens United*, wealthy donors and special interests have been able to 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 really funding political ads.[31] By requiring big outside spenders to publicly disclose the original sources of money they spend in Illinois elections, H.B. 5154 would put an end to secret spending in Illinois elections. In doing so, Illinois would join states across the country enacting enhanced election transparency laws, like Arizona's Voters' Right to Know Act, thereby protecting and strengthening Illinoisans' right to know who is spending big money to influence their votes. As the U.S. Court of Appeals for the First Circuit explained in upholding a Rhode Island election transparency law, "a well informed electorate is as vital to the survival of a democracy as air is to the survival of human life."[32]

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[26] Ariz. Rev. Stat. § 16-974(C); Ariz. Admin. Code § 2-20-805(B).
[27] *Ams. for Prosperity*, 724 F. Supp. 3d at 874.
[28] *Id.* at 877-78.
[29] *See, e.g.*, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996) (finding unconstitutional a state statute requiring payment of court fees in order to appeal termination of one's parental rights); *Boddie v. Connecticut*, 401 U.S. 371 (1971) (finding unconstitutional a state law restricting the right to divorce based on the ability to pay court fees and costs).
[30] *See, e.g.*, *Bullock v. Carter,* 405 U.S. 134, 144 (1972) (striking down a filing fee requirement as a condition for a candidate to have his name placed on the ballot, and explaining, "we would ignore reality were we not to recognize that this system falls with unequal weight on voters, as well as candidates, according to their economic status"); *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966) (striking down a state statute requiring payment of a poll tax as a voter qualification).
[31] *See, e.g.*, Tina Sfondeles, *Big money, big problems. Deep-pocketed, self-funding candidates and dark money mar Illinois politics*, CHI. SUN-TIMES (Dec. 31, 2023), https://chicago.suntimes.com/2023/12/31/24000055/big-money-illinois-politics-jb-pritzker-bruce-rauner-ken-griffin-democracy-solutions.
[32] *Gaspee Project v. Mederos*, 13 F.4th 79, 95 (1st Cir. 2021).

II. H.B. 5154's improved coordination standards would prevent outside spenders from evading contribution limits and curb corruption and the appearance of corruption in Illinois government.

Under H.B. 5154, Illinois' coordination laws would be updated to ensure that elected officials are accountable to their constituents and not wealthy special interests. The coordination provisions in the bill would both explicitly cover the types of coordinated conduct that outside groups and candidates engage in and ensure a broader range of election spending is accounted for, thereby preventing evasion of contribution limits and curbing corruption and the appearance of corruption in Illinois government.

A. H.B. 5154 establishes clear standards for determining whether expenditures are coordinated and subject to contribution limits.

Contribution limits are a foundational component of campaign finance regulation, guarding against corruption and the appearance corruption in elections and ensuring that officeholders are accountable to the people they represent.[33] But as outside spending in elections has exploded in the wake of *Citizens United*, weak coordination laws have allowed candidates to evade contribution limits by working with ostensibly "independent" groups, effectively permitting groups that can raise unlimited funds to bankroll candidates' campaigns.[34] Without effective regulation of coordinated spending between candidates and outside spenders, wealthy donors and special interests can easily sidestep existing limits on direct contributions.[35]

Under Illinois law, an electioneering communication is considered coordinated—and therefore constitutes a contribution—if the communication is "made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, political committee, or any of their agents."[36] Similarly, an expenditure by a political committee is considered a contribution to another political committee when the expenditure is "made in cooperation, consultation, or concert with" with the recipient committee.[37] To strengthen Illinois' coordination rules, these standards should be updated to address specific types of cooperative conduct that candidates and spenders use to work in tandem.[38]

H.B. 5154 would establish clear standards covering the full range of this cooperative conduct to determine whether election spending is coordinated and thus subject to

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[33] Under Illinois law, in 2026, an individual may give a candidate no more than $7,300 in an election cycle. *See* Ill. State Bd. of Elections, *Contribution Limits Per Election Cycle* 1 (2025), https://shorturl.at/naHC3 *and* 10 Ill. Comp. Stat. § 5/9-8.5(a).

[34] *See generally*, SAURAV GHOSH ET AL., CAMPAIGN LEGAL CTR., THE ILLUSION OF INDEPENDENCE: HOW UNREGULATED COORDINATION IS UNDERMINING OUR DEMOCRACY, AND WHAT CAN BE DONE TO STOP IT, 3 (2023) https://perma.cc/4VC9-KZKG.

[35] *See, e.g.*, Rick Pearson, *Election board ruling reveals loophole in Illinois' campaign finance laws*, CHI. TRIB. (June 22, 2024), https://www.chicagotribune.com/2024/06/22/election-board-ruling-reveals-loophole-in-illinois-campaign-finance-laws/.

[36] 10 Ill. Comp. Stat. § 5/9-1.4(A)(1.5).

[37] 10 Ill. Comp. Stat. § 5/9-1.4(A)(5).

[38] *See, e.g.*, A.D. Quig, *Donors to political committee supporting Paul Vallas are secret, but leadership has ties to current campaign*, CHI. TRIB. (Feb. 9, 2023) https://www.chicagotribune.com/2023/02/09/donors-to-political-committee-supporting-paul-vallas-are-secret-but-leadership-has-ties-to-current-campaign/.

contribution limits. These standards will prevent outside spenders from circumventing contributions limits by covering the most common ways in which campaigns and outside groups collaborate, including:

1. A candidate, candidate's family member, or campaign or party official having a role in forming or managing the outside group making the expenditure.

2. A candidate or party official fundraising for the outside group making the expenditure or appearing as a featured guest at the outside group's fundraising events.

3. The outside group making the expenditure relying on nonpublic information about the campaign that is provided by the candidate or party official or others involved in the campaign.

4. The outside group making the expenditure employs a former employee or agent of the candidate or party, or uses a common vendor also providing services to the campaign.

In other words, under H.B. 5154, if a group with these kinds of connections to a candidate or to a party makes expenditures to benefit that candidate or party, such spending would be considered coordinated and subject to contribution limits.

Additionally, H.B. 5154 would regulate "redboxing," an emergent campaign practice designed to evade coordination laws. Redboxing occurs when a campaign publishes detailed instructions regarding campaign strategy and messaging on its website or digital media channels and an outside spender uses those instructions to make or disseminate the political ads requested by the campaign.[39] Under H.B. 5154, a person who makes an expenditure based on the campaign's instructions is presumed to have made an expenditure in coordination with the campaign. Similarly, H.B. 5154 also specifies that when a group simply republishes a candidate or political party's campaign materials to support that candidate or party, the expenditure is considered a coordinated expenditure.[40]

Similar to the transparency provisions described above, the coordination rules would also apply to a fuller range of election-influencing spending, thereby preventing outside groups from skirting limits on contributions to candidates and parties. The coordination rules would be expanded to apply to spending for PASO communications; political ads that mention a candidate or party from 120 days prior to a primary election through the date of the general election; partisan voter activity; and activities to support campaign spending, like research and polling.

Finally, H.B. 5154 would provide clear guidelines for effective firewalls for groups that wish to engage in both coordinated and independent spending. An effective firewall

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[39] Saurav Ghosh, *Voters Need to Know What "Redboxing" Is and How It Undermines Democracy*, CAMPAIGN LEGAL CTR. (May 13, 2022) https://campaignlegal.org/update/voters-need-know-what-redboxing-and-how-it-undermines-democracy. *See also* Gabriel Foy-Sutherland & Saurav Ghosh, *Coordination in Plain Sight: The Breadth and Uses of "Redboxing" in Congressional Elections*, 23 ELECTION L.J. 149 (2024).

[40] *See* SAURAV GHOSH ET AL., at 31-32.

prevents common vendors from passing strategic campaign information between candidates, political parties, and outside spenders, thereby ensuring that independent expenditures are truly independent. The firewall requirements under H.B. 5154 create meaningful physical and managerial separation between staff working for a campaign and staff working for outside spenders. Groups that implement and comply with such firewall requirements would be able to make independent expenditures without all of their spending being considered coordinated.

B. H.B. 5154's coordination standards are consistent with longstanding U.S. Supreme Court precedent upholding measures to prevent spenders from circumventing contribution limits.

The coordination standards included in H.B. 5154 address an ever-growing issue in contemporary elections: ensuring that wealthy donors and special interests cannot underwrite candidates' campaigns by making otherwise excessive and prohibited campaign contributions in the form of election spending that is coordinated with and on behalf of their preferred candidates. As decades of U.S. Supreme Court precedent has established, coordinated spending between outside spenders and the candidates they support is materially indistinguishable from campaign contributions and regulating such spending is thus constitutional and essential for reducing actual and apparent political corruption.

Beginning with its seminal decision in *Buckley v. Valeo*, the U.S. Supreme Court has consistently maintained that outside expenditures "controlled by or coordinated with a candidate" may be constitutionally limited in the same manner as direct contributions to the candidate's campaign.[41] Because coordinated expenditures are essentially indirect or in-kind contributions to candidates, limiting expenditures made in coordination with candidates furthers the same anti-corruption interests served by limits on direct campaign contributions and, critically, "prevent[s] attempts to circumvent the [limits] through prearranged or coordinated expenditures amounting to disguised contributions."[42]

In *McConnell v. FEC*, the Supreme Court upheld BCRA's expansion of federal coordination rules to cover coordinated expenditures made in the absence of "an agreement or formal collaboration" with a candidate.[43] *McConnell* noted that the existence of a formal agreement did not establish "the dividing line" between coordinated and independent spending, and explained that "expenditures made after a 'wink or nod' often will be 'as useful to the candidate as cash.'"[44] Moreover, the Court reiterated that only "wholly independent" spending is constitutionally distinguishable.[45]

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[41] 424 U.S. at 46-47.
[42] *Id*. at 455.
[43] 540 U.S. 93, 220-23 (2003).
[44] *Id*. at 221 (quoting *FEC v. Colo. Republican Federal Campaign Committee*, 533 U.S. 421, 446 (2001)); *see also id.* at 222 ("A supporter could easily comply with a candidate's request or suggestion without first agreeing to do so, and the resulting expenditure would be virtually indistinguishable from a simple contribution." (internal quotation marks and brackets omitted)).
[45] *Id.* at 221.

Even in *Citizens United v. FEC*,[46] the majority's assumption that *independent* expenditures are made without "prearrangement and coordination" with candidates[47] was central and essential to the Court's holding that independent expenditures, unlike direct campaign contributions, do not create a risk of "quid pro quo" corruption, underscoring the importance of the distinction between coordinated and independent spending. Since the Supreme Court struck down the ban on corporate independent expenditures in *Citizens United*, coordination rules have become especially critical to enforcing statutory limits on contributions.

Expenditures that are coordinated as described in H.B. 5154 bely any commonsense understanding of "independent" spending and undermine limits on campaign contributions that are key to preventing corruption in our democratic process. When an ostensibly "independent" spender pays to run advertisements in collaboration with a candidate or party, those ads will plainly be "as useful to the candidate as cash."[48] Put another way, when outside spenders pay for ads or other expenditures to help advance the strategy of their preferred candidates or party, such spending is clearly not "wholly independent."

III. Conclusion

In light of the important changes this bill would make to strengthen Illinois' transparency and coordination laws, CLC strongly supports H.B. 5154. Thank you for your leadership in introducing this bill and championing these important policies. Please do not hesitate to contact us if you have further questions.

Respectfully submitted,

/s/
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[46] 558 U.S. 310 (2010).
[47] *Id.* at 357.
[48] 540 U.S. 93, 221 (2003).