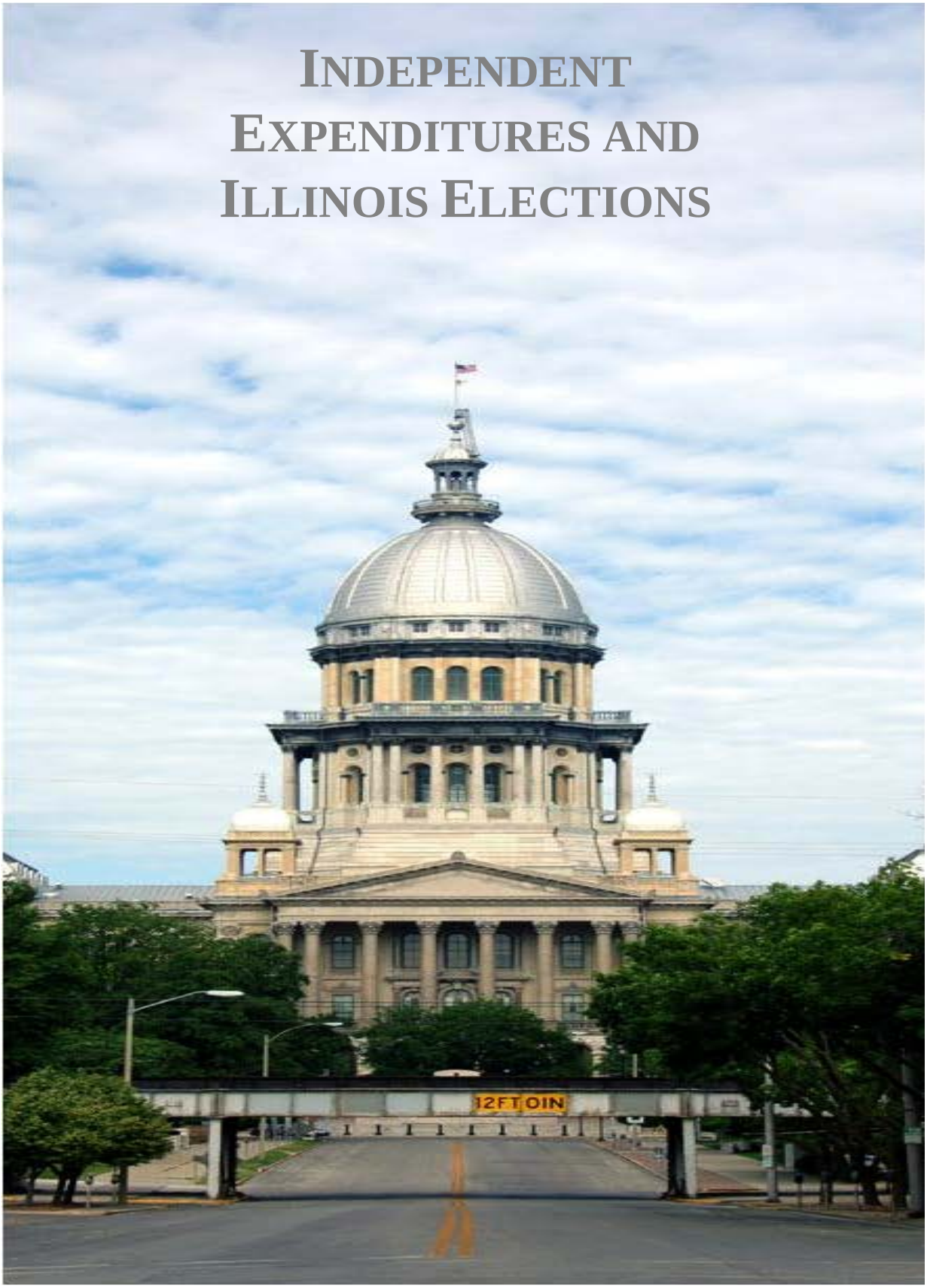
INDEPENDENT EXPENDITURES AND ILLINOIS ELECTIONS



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INDEPENDENT EXPENDITURES AND ILLINOIS ELECTIONS

February __, 2013

I. Introduction

The landscape of campaign financing has changed dramatically in the wake of the United States Supreme Court's 2010 decision in *Citizens United v. Federal Election Commission*. In *Citizens United*, the Court held that federal limits on independent expenditures by corporations violate the First Amendment. The *Citizens United* decision and other subsequent decisions, including the decision of the United States Court of Appeals for the District of Columbia Circuit in *SpeechNow.org v. Federal Election Commission*, gave rise to a new breed of political committees known as independent-expenditure-only committees or "Super PACs," which have quickly come to occupy a major place in federal and state elections. As one indication, the 2012 general election saw outside spending groups compete for supremacy in political spending with the candidates and with national political parties. The $1.28 billion in independent expenditures at the federal level exceeded independent expenditures in the four previous election cycles combined.

Illinois has amended its campaign finance and disclosure laws in response to these developments. After a lower court decision interpreting *Citizens United* and *SpeechNow* held that Illinois's campaign finance limits could not be applied to independent expenditure committees, the General Assembly responded by passing Public Act 97-766 (the "Act") on July 6, 2012. The Act permits independent expenditures to be made in connection with Illinois elections in a manner that protects First Amendment rights and is consistent with court rulings in *Citizens United* and subsequent cases. The Act also lifts the political contribution limits applicable to candidates if certain levels of independent expenditures are made in a particular race.

Illinois's 2012 general election provides the first opportunity to assess the efficacy of the State's new rules on independent expenditures. The Act itself directs the Illinois Campaign Finance Task Force to examine and make recommendations regarding the provisions of the Act to the Governor and the Illinois General Assembly by February 1, 2013.[1] In preparing this report, the Act directs the Task Force to take into account "case law concerning independent expenditures, the manner in which independent expenditures are handled in the other states and at the federal level, independent expenditures made in Illinois during the 2012 general primary and, separately, the 2012 general election, and independent expenditures made at the federal level during the 2012 general election."[2] Accordingly, this Report provides an overview of legal developments after *Citizens United*; surveys changes in federal and state regulation of independent expenditures; summarizes expenditures in the 2012 election at both the state and federal level; and, finally, sets forth potential areas for further legislative and administrative actions related to independent expenditures.

[1] The Task Force informed the Governor and General Assembly by letter that this final draft would be submitted shortly after February 1, 2013.

[2] 10 ILCS 5/9-8.5(h-5).

II. Background on Regulation of Independent Expenditures

Part II of this Report provides an overview of the history of independent expenditure regulations in Illinois culminating in Public Act 97-766. It also provides an overview of the current regulatory regime and surveys independent expenditures during the most recent state elections.

A. History of Independent Expenditure Regulation

Prior to 2011, Illinois had no restrictions on the size or source of campaign contributions to candidates for office.[3] The enactment of Public Act 96-832 introduced contribution limits effective January 1, 2011 and created a new category of spending called "independent expenditures." An independent expenditure is any expenditure expressly advocating for or against a candidate (or making any other electioneering communication), provided the payment is not coordinated, in any way, with the candidate or candidate committee.[4]

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[3] Illinois had and continues to have specific political contribution prohibitions related to State contractors. *See* 30 ILCS 500/50-37.

[4] *See* 10 ILCS 5/9-1.15. As amended by Public Act 97-766, the statutory definition of an "independent expenditure" is:

> any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign.

Id. An electioneering communication is roughly defined as any broadcast, advertisement or communication that (1) refers to a clearly identified candidate, political party or public policy question, (2) is made in the 60 days before a general or consolidated election or 30 days before a primary election, (3) is targeted to the relevant electorate and (4) is clearly an appeal to vote for or against the candidate or question. *See* 10 ILCS 5/9-1.14(a) (definition). *See also id.* at 5/9-1.14(b) (exclusions from definition).

Public Act 96-832 brought independent expenditures directly into the existing disclosure regime.[5] The law obligates individuals making more than $3,000 in aggregate annual independent expenditures to disclose their identity, occupation and employer; the candidate supported or opposed; and the date, nature and amount of each independent expenditure to the State Board of Elections.[6] Public Act 96-832 made clear that any entity making over $3,000 in annual independent expenditures must organize as a political committee, and it provided that all political committees making independent expenditures must report all such expenditures.[7] Public Act 96-832 also amended reporting requirements such that political committees must file reports on a quarterly basis disclosing information about contributions and contributors to the committee and independent expenditures by the committee.[8]

Although an independent expenditure "is not considered a contribution to a political committee,"[9] Public Act 96-832 also attempted to limit contributions to committees formed for the exclusive basis of making independent expenditures by treating them like any other political committees.[10] Effectively, independent expenditure committees were required to organize as political action committees. Contributions to political action committees as of January 1, 2011 were limited to no more than $10,000 from any individual, $20,000 from any corporate entity, or

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[5] Prior to the effectiveness of Public Act 96-832, all expenditures in connection with a candidate were reported to the candidate; the candidate, in turn, had the obligation to disclose the expenditures as in-kind contributions.

[6] 10 ILCS 5/9-8.6(a) (disclosure must occur within two business days of the expenditure that meets or exceeds the $3,000 threshold). Public Act 97-766 also imposed ongoing reporting obligations on such an individual in $1,000 increments for the remaining duration of the election cycle. *Id.*

[7] 10 ILCS 5/9-8.6(b),(c). Organization as a political committee requires certain disclosures and recordkeeping. *See* 10 ILCS 5/9-3, 5/9-6, 6/9-7.

[8] *See* 10 ILCS 5/9-10, 5/9-11.

[9] 10 ILCS 5/9-8.6(a).

[10] The distinct category of independent expenditure committee did not exist until the enactment of Public Act 97-766.

$50,000 from any other political committee or candidate committee during a calendar year. On March 13, 2012, in the wake of the *Citizens United* decision,[11] the U.S. District Court for the Northern District of Illinois in *Personal PAC v. McGuffage* permanently enjoined enforcement of these contribution limits with respect to political committees formed for the exclusive basis of making independent expenditures.[12] Illinois did not appeal the court's decision; instead, it amended the Election Code via Public Act 97-766 to create the specific category of an independent expenditure committee as a political committee that is formed for the "exclusive purpose of making independent expenditures"[13] and to make clear that "[a]n independent expenditure committee may accept contributions in any amount from any source, provided that the committee . . . files the disclosure reports required by the provisions of this Article."[14] To date, Illinois's disclosure requirements for independent expenditure committees have not been challenged in court.

B. Summary of Current Provisions

After the *Personal PAC* decision and enactment of Public Act 97-766, Illinois law generally imposes four areas of requirements related to independent expenditures:

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[11] *See* Part III.A, *infra*.

[12] *Personal PAC v. McGuffage*, 858 F. Supp. 2d 963 (N.D. Ill. 2012).

[13] 10 ILCS 5/9-1.8(f).

[14] 10 ILCS 5/9-8.5(e-5). Also per the *Personal PAC* order, Illinois exempted independent expenditure committees from the restriction that "no natural person, trust, partnership, committee, association, corporation or any other organization or group of persons forming a political action committee shall maintain or establish more than one political action committee." 10 ILCS 5/9-2(d) ("This subsection does not apply to independent expenditure committees.").

1. *Entities that raise more than $3,000 in contributions for the purpose of making independent expenditures or expend more than $3,000 in annual independent expenditures must organize as independent expenditure committees.*[15]

An independent expenditure committee is a species of political committee[16] that includes:

> any trust, partnership, committee, association, corporation, or other organization or group of persons formed for the exclusive purpose of making independent expenditures during any 12-month period in an aggregate amount exceeding $3,000 in support of or in opposition to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the electors.[17]

The obligation to organize as an independent expenditure committee imposes some immediate obligations on entities making significant independent expenditures.[18] For example, as a

[15] *See* 10 ILCS 5/9-8.6(b) ("Any entity other than a natural person that makes expenditures of any kind in an aggregate amount exceeding $3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee in accordance with this Article."). Political committees that are not formed exclusively for the purpose of making independent expenditures and are thus not independent expenditure committees and, therefore, remain subject to contribution limits must nonetheless disclose all independent expenditures in the same manner as is required by independent expenditure committees. *See* 10 ILCS 5/9-8.6(c) ("Every political committee that makes independent expenditures must report all such independent expenditures as required under Section 9-10 of this Article.").

[16] 10 ILCS 5/9-1.8 ("'Political committee' includes . . . an independent expenditure committee.").

[17] 10 ILCS 5/9-1.8(f) (the definition also includes "any trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications that are not made in connection, consultation, or concert with or at the request or suggestion of a public official or candidate, a public official's or candidate's designated political committee or campaign, or an agent or agents of the public official, candidate, or political committee or campaign during any 12-month period in an aggregate amount exceeding $3,000 related to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the voters.").

[18] An individual making independent expenditures does not have to organize as an independent expenditure committee but nonetheless must comply with significant disclosure obligations. *See* 10 ILCS 5/9-8.6(a) (disclosure obligations for individuals making more than $3,000 in aggregate annual independent expenditures). As noted in Part II.C.2, *infra*, individuals are not currently a significant source of independent expenditures. Similarly, political committees that are not organized as independent expenditure committees may also make independent expenditures, but they also are a less significant source of independent expenditures. *See* Part II.C.2, *infra*.

political committee, the Election Code requires that an independent expenditure committee designate a chairman and treasurer.[19]

Like every other political committee, an independent expenditure committee must file a verified statement of organization with the State Board of Elections that includes: (1) the committee's name and address; (2) the committee's scope, area of activity, party affiliation and purpose; (3) the names, addresses and positions of the custodians of the committee's records; (4) the names, addresses and positions of the committee's officers; (5) the name and address of any person or entity that contributes at least 33 percent of the committee's total funding; (6) a disclosure of how unspent funds will be dissipated if the committee dissolves; (7) a list of all banks or other custodians of committee funds; and (8) the amount of funds available for campaign expenditures as of the date of filing.[20] The statement of organization for an independent expenditure committee must additionally include a signed verification by the chairman of the committee that:

> (i) the committee is formed for the exclusive purpose of making independent expenditures, (ii) all contributions and expenditures of the committee will be used for the purpose described in the statement of organization, (iii) the committee may accept unlimited contributions from any source, provided that the independent expenditure committee does not make contributions to any candidate political committee, political party committee, or political action committee, and (iv) failure to abide by these requirements shall deem the committee in violation of this Article.[21]

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[19] 10 ILCS 5/9-2(f). The Election Code notes that the chairman and treasurer of a political committee can be the same person, but the Code assigns responsibility for the required recordkeeping and reporting to the individual in the treasurer's role. *Id.*

[20] 10 ILCS 5/9-3(a) (this filing must be made within 10 business days of committee formation or two business days if there is an election within 30 days), 5/9-3(b). Changes in the information previously submitted in a statement of organization must be reported within 10 days of that change. *Id.* at 5/9-3(a).

[21] 10 ILCS 5/9-3(d-5).

The Election Code creates a public and private right of action for injunctive relief to enforce these registration and disclosure requirements.[22]

In addition, the treasurer of an independent expenditure committee (like the treasurer of any other political committee) must "keep a detailed and exact account of" (1) the total of all contributions to the committee; (2) the name and address of each contributor; (3) the date and amount of each contribution; (4) the total of all expenditures by the committee; (5) the name and address of each recipient; (6) the date and amount of each expenditure; and (7) proof of payment for each committee expenditure.[23]

Unlike other political committees, however, independent expenditure committees are specifically exempt from the prohibition on any person or entity forming more than one political committee.[24] In addition, an independent expenditure committee's name does not have to include the name of the entity that formed the committee.[25]

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[22] 10 ILCS 5/9-28.5(c) ("Whenever the Attorney General, or a State's Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is engaging in independent expenditures, as defined in this Article, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an action in the name of the People of the State of Illinois or, in the case of a State's Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making of such expenditures until the registration and disclosure requirements have been met."); *id.* 5/9-28.5(d) ("Any political committee that believes any person, as defined in Section 9-1.6, is engaging in independent expenditures, as defined in this Article, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit court against such person or persons to restrain by preliminary or permanent injunction the making of independent expenditures until the registration and disclosure requirements have been met.").

[23] 10 ILCS 5/9-7(1). The treasurer must preserve these records for at least the last two years. *Id.* The treasurer may also be relieved of these recordkeeping requirements for certain types of fundraising activities. *See id.* at 5/9-7(2).

[24] 10 ILCS 5/9-2(d).

[25] 10 ILCS 5/9-2(d).

2. *There are no limits or restrictions on contributions that an independent expenditure committee can accept from individuals, entities or political action committees.*

After the *Personal PAC* decision, the General Assembly amended the Election Code to state that:

> An independent expenditure committee may accept contributions in any amount from any source, provided that the committee files the document required by Section 9-3 of this Article and files the disclosure reports required by the provisions of this Article.[26]

Although the contribution limits that apply to other political committees do not apply to independent expenditure committees, certain disclosure requirements apply to independent expenditure committees simply by virtue of being a political committee. For example, on all literature and advertisements soliciting contributions, an independent expenditure committee must notify readers as to how to find the committee's reports with the State Board of Elections.[27] In addition, certain contributors must provide the committee treasurer with specific information for his or her records.[28]

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[26] 10 ILCS 5/9-8.5(e-5). The Election Code specifically prohibits political committees from accepting anonymous contributions or contributions made by one person in the name of another. *See* 10 ILCS 5/9-25. This older prohibition is in literal tension with the recently added permissive language that "[a]n independent expenditure committee may accept contributions . . . from any source," but the Election Code also clearly requires an independent expenditure committee to disclose information about its contributors in various reports, including the contributors' names. *See* 10 ILCS 5/9-8.5(e-5), 5/9-10(c), 5/9-11(a)(4).

[27] *See* 10 ILCS 5/9-9. In addition, if an independent expenditure committee solicits contributions to support or oppose a candidate, the committee must include a notice on the front of all literature or advertisements or following all commercials that mention that candidate stating that "that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee." *See* 10 ILCS 5/9-8 (imposing the same obligation on independent expenditures by an independent expenditure committee to support or oppose a candidate that mention the candidate).

[28] *See* 10 ILCS 5/9-6 (requirements for persons collecting contributions on the committee's behalf and in-kind contributors).

3. *There are no limits on independent expenditures by an independent expenditure committee.*

There are no limitations on the size of independent expenditures by an independent expenditure committee. However, if an independent expenditure committee in support of or in opposition to a particular candidate makes independent expenditures on behalf of or opposition to that candidate that are in aggregate more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices in an election cycle, then the limits on direct contributions to all candidates in that race are lifted.[29] Within two business days of making an expenditure that exceeds one of these thresholds, the committee is required to file a written disclosure with the State Board of Elections. The Election Code provides that the State Board of Elections shall

[29] 10 ILCS 5/9-8.5 (h-5) ("If a natural person or independent expenditure committee makes independent expenditures in support of or in opposition to the campaign of a particular public official or candidate in an aggregate amount of more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices in an election cycle . . . then the State Board of Elections shall . . . give official notice . . . to each candidate for the same office as the public official or candidate for whose benefit the natural person or independent expenditure committee made independent expenditures. Upon receiving notice from the Board, all candidates for that office in that election, including the public official or candidate for whose benefit the natural person or independent expenditure committee made independent expenditures, shall be permitted to accept contributions in excess of any contribution limits imposed by subsection (b)."). Subsection 5/9-8.5(b) would ordinarily impose the following limits on contributions to a candidate political committee:

> During an election cycle, a candidate political committee may not accept contributions with an aggregate value over the following: (i) $5,000 from any individual, (ii) $10,000 from any corporation, labor organization, or association, or (iii) $50,000 from a candidate political committee or political action committee. . . . During an election cycle in which the candidate seeks nomination at a primary election, a candidate political committee may not accept contributions from political party committees with an aggregate value over the following: (i) $200,000 for a candidate political committee established to support a candidate seeking nomination to statewide office, (ii) $125,000 for a candidate political committee established to support a candidate seeking nomination to the Senate, the Supreme Court or Appellate Court in the First Judicial District, or an office elected by all voters in a county with 1,000,000 or more residents, (iii) $75,000 for a candidate political committee established to support a candidate seeking nomination to the House of Representatives, the Supreme Court or Appellate Court for a Judicial District other than the First Judicial District, an office elected by all voters of a county of fewer than 1,000,000 residents, and municipal and county offices in Cook County other than those elected by all voters of Cook County, and (iv) $50,000 for a candidate political committee established to support the nomination of a candidate to any other office.

10 ILCS 5/9-8.5(b).

assess a civil penalty of $500 for the first failure to file this disclosure and $1,000 for each subsequent failure to file.[30]

Further, although there is no limit on the size of an independent expenditure, there are requirements related to the types of expenditures that may be made. As a matter of statutory definition, an independent expenditure must be "for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters."[31] An expenditure not made for this purpose may be a coordinated expenditure (in which case it may not be made by an independent expenditure committee) or it may be specifically prohibited by the Election Code.[32]

An independent expenditure cannot be "made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign."[33] A coordinated expenditure is not considered to be an independent expenditure. Instead it is treated as "a contribution to the public official's or candidate's political committee" and is subject to applicable contribution limits. Furthermore, to the extent an independent expenditure committee makes a contribution to any other political committee other than an independent expenditure committee or a ballot initiative committee, the State Board of Elections is required to assess a fine equal to the amount of any

[30] 10 ILCS 5/9-10(e-5).

[31] 10 ILCS 5/9-1.15.

[32] An independent expenditure committee, like all other political committees, cannot make expenditures to, for example, pay expenses relating to a personal residence or put up collateral for a home mortgage. *See* 10 ILCS 5/9-8.10 (enumerating prohibited uses of campaign funds and political committee expenditures).

[33] 10 ILCS 5/9-1.15.

contribution received by the independent expenditure committee in the last two years that exceeded the limits for a public action committee set forth in the Election Code.[34]

Finally, an independent expenditure committee may have to append certain notices to some independent expenditures. If an independent expenditure committee makes an independent expenditure to support or oppose a candidate, the committee must include a notice on the front of all literature or advertisements that mention the candidate (or following all commercials that mention the candidate) stating that "that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee."[35] Similarly, an independent expenditure committee (like any other political committee) that pays for a pamphlet, circular, handbill, Internet or telephone communication, radio, television, or print advertisement, or other communication directed at voters and mentioning the name of a candidate must also disclose itself in the electioneering communication as the payor.[36]

4. *Each independent expenditure committee must make certain disclosures about contributions to it, its contributors and independent expenditures by the committee.*

By virtue of being a political committee, contributions to, and independent expenditures by, an independent expenditure committee must be disclosed in several reports to the State Board of Elections. First, independent expenditure committees must file quarterly reports.[37] These quarterly reports must include a disclosure of, *inter alia*, (1) the amount of funds on hand at the

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[34] 10 ILCS 5/9-8-6(d).

[35] *See* 10 ILCS 5/9-8 (imposing the same obligation on solicitations that mention the candidate for contributions to an independent expenditure committee to support or oppose a candidate).

[36] *See* 10 ILCS 5/9-9.5.

[37] 10 ILCS 5/9-10(b). The quarters coincide with the fiscal year and reports are due no later than the 15th of the month following the close of the quarter. *Id.* A report must be filed each quarter, regardless of whether the committee received any contributions or made any expenditures during that period. *Id.*

beginning of the reporting period; (2) the full name and mailing address of every person that contributed in aggregate more than $150 to the committee or received in aggregate more than $150 in committee expenditures during the reporting period; (3) the dates and amounts of those contributions or expenditures; (4) the occupation and employer of any contributor who gave in aggregate over $500 during the reporting period; (5) the purpose of each disclosed expenditure and the question of public policy or the name and address of, and the office sought by, each candidate on whose behalf each disclosed expenditure was made; (6) the name and address of each political committee from which the reporting independent expenditure committee received or to which that committee made any transfer in excess of $150; and (7) the total amount of proceeds received by the committee from tickets sales to each fundraising event or the sale of campaign merchandise.[38] The quarterly report must also include, *inter alia*, a certification under penalty of perjury that independent expenditures were uncoordinated and must set out the total amount of all independent expenditures during the reporting period, with a breakout of the total sum of all individual undisclosed independent expenditures.[39]

Second, independent expenditure committees must make an interim contribution report to the State Board of Elections each time they receive a contribution of more than $1,000.[40] The interim contribution report must disclose the full name and mailing address of each person who made a contribution of $1,000 or more.[41]

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[38] 10 ILCS 5/9-11(a) (setting out the full list of contribution and expenditure disclosure items for quarterly reports).

[39] 10 ILCS 5/9-11(c) (setting out the full list of independent expenditure disclosure items for quarterly reports).

[40] 10 ILCS 5/9-10(c). This interim report must ordinarily be made within five business days of the triggering contribution. *Id.* *See also* 10 ILCS 5/9-10(d) (defining when a contribution is considered received). The interim report must be made within two business days of the triggering contribution if the contribution is received 30 days or less before an election in which the committee supports or opposes a candidate or ballot question and has made more than $500 in expenditures in support or opposition of that candidate or ballot question. *Id.* at 5/9-10(c).

[41] 10 ILCS 5/9-11(b).

Similarly, independent expenditure committees must make an interim report of independent expenditures of $1,000 or more during the period 30 days prior to an election.[42] The interim expenditure report must contain (1) the full name and mailing address of each person to whom an expenditure in excess of $150 was made in connection with the triggering independent expenditure; (2) the amount, date and purpose of such expenditure; (3) a statement of whether the independent expenditure was in support of or in opposition to a particular candidate; (4) the name of the candidate; (5) the office and district of the candidate; and (6) a certification that the independent expenditure was uncoordinated.[43]

Failure to file any of the disclosures described above may result in the imposition of fines as provided for in the Election Code.

C. Independent Expenditures in the 2012 Election Cycles

1. *Independent Expenditures in the 2012 Primary Election*

Several groups engaged in independent expenditures during the 2012 primary election; however, the *Personal PAC* decision came down only a week before the March 20, 2012 primary election and the General Assembly only amended the Election Code later that spring to recognize independent expenditure committees and make clear that such committees are not subject to contribution limits. Therefore, while independent expenditures were made during the 2012 primary election cycle, they were not made under the current legal regime governing independent expenditures and are not examined in depth as part of this Report.

[42] 10 ILCS 5/9-10(e). This disclosure must be made to the State Board of Elections within five business days of the independent expenditure.

[43] 10 ILCS 5/9-11(c) (these requirements are consistent with disclosures regarding independent expenditures that must be made in quarterly reports).

2. *Independent Expenditures in the 2012 General Election*

According to the Illinois Campaign for Political Reform, during the 2012 general election, political committees reported a total of $1.7 million in independent expenditures. The vast majority ($1.6 million) was spent in legislative races to support or oppose candidates running for seats in the General Assembly. Of these independent expenditures, almost all ($1.5 million) came from independent expenditure committees. Other types of political committees reported negligible independent expenditures ($219,000), and no individual reported making any independent expenditure during the 2012 general election.[44]

In context, the $1.6 million in independent expenditures in legislative races during the 2012 general election was targeted to relatively few races. Independent expenditures were not a factor in most legislative races. Moreover, candidates in the 29 targeted legislative races (15 House races and 14 Senate races) raised a total of $29.47 million, rendering independent expenditures just 5.5 percent of the total raised by candidates in targeted races from all sources. A high-level assessment, however, is misleading, given the large variation in the amount and number of independent expenditures in particular races.[45] Looking at individual races, independent expenditures ranged from less than 1 percent to nearly 13 percent of fundraising by both candidates. Comparing independent expenditures to the fundraising of particular targeted candidates shows that, in some instances, independent expenditures were more than 40 percent of all other monies raised by a candidate.

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[44] Note that this is not the same as saying that no individual made any independent expenditure. The lack of reported independent expenditures by any individuals in the 2012 general election only indicates that no individual reported that he or she made independent expenditures exceeding $3,000 as an annual aggregate, the threshold triggering disclosure obligations.

[45] An uncontested Chicago Senate race (5th District: Patricia Van Pelt Watkins) included only a single $636 independent expenditure by one group, while a contested Quad Cities Senate race (36th District: Mike Jacobs v. Bill Albracht) saw $252,141 in independent expenditures by six different groups.

In terms of frequency, independent expenditures were equally likely to support as oppose a candidate (37 reported independent expenditures supporting a candidate versus 40 opposing). But, in terms of dollars spent, independent expenditures were more likely to be negative ($760,609.70 spent in support versus $941,642.61 in opposition).

Without base rate polling information on each race, it is very difficult to determine the impact of the independent expenditures on the outcome of targeted races, but it appears that independent expenditures, at least for legislative races in the last general election, typically did not achieve their desired electoral outcome. That is to say, a defeat followed independent expenditures opposing a candidate or a victory followed independent expenditures supporting a candidate in only 19 instances. The desired result did not follow the independent expenditure the other 58 times.

Finally, of the 29 legislative races in which independent expenditures were made during the 2012 general election, there is only one instance in which a particular independent expenditure committee filed a disclosure[46] that it spent more than $100,000 supporting or opposing a particular candidate. This lone instance occurred during the District 31 Senate Race, when Personal PAC spent $159,000 to oppose Republican Joe Neal's candidacy. Although this expenditure lifted the contribution limits on all candidates in the District 31 Senate race by operation of section 5/9-8.5(h-5) of the Election Code, neither candidate subsequently reported

[46] After the election, the Republican State Leadership Committee revised their reported independent expenditures in the 111th District House race between Democrat Dan Beiser and Republican challenger Kathy Smith, disclosing an increase in independent expenditures over that which had been previously reported. All these expenditures by the Republican State Leadership Committee supported Smith or opposed Beiser. Had the revised independent expenditure totals been reported during the general election cycle, they would have triggered section 5/9-8.5(h-5).

receiving a contribution in excess of the candidate contribution limits set out in section 5/9-8.5(b) of the Election Code.[47]

[47] Notably, if candidate contribution limits could be lifted by $100,000 in aggregate independent expenditures from all sources—not solely by a single individual or independent expenditure committee—there would have been four additional legislative races during the 2012 general election where candidate contribution limits would have been lifted.

III. Case Law on Independent Expenditures

Part III of this Report provides an overview of the Supreme Court's decision in *Citizens United* and lower court decisions interpreting this ruling. It considers a new generation of legal challenges to pay-to-play schemes, which prohibit entities doing business with the state or federal government from making political contributions.

A. Overview of *Citizens United* and Its Progeny

Citizens United considered the constitutionality of a federal election law that prohibited corporations and unions from using their treasury funds to make independent expenditures in federal elections. It concluded that "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption" and that, therefore, the government did not have a compelling interest in restricting the political speech of corporations. In reaching the conclusion that independent expenditures by corporations posed no danger of *quid pro quo* corruption, the Court relied heavily on the argument that the lack of coordination between a candidate and the individual making the independent expenditure "alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate."[48] The Court also rejected the government's argument that its interest in preventing "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form" was sufficiently compelling to justify imposition of limits on independent expenditures by corporations.[49] Finding no compelling

[48] *Citizens United v. Federal Election Commission*, 558 U.S. 310, __, 130 S. Ct. 876, 908 (2010) (internal quotation marks omitted).

[49] *Id*. at 903 (internal quotation marks omitted).

government interest in barring independent expenditures by corporations, the Court declared such prohibitions to be a violation of the First Amendment.[50]

The United States Court of Appeals for the District of Columbia Circuit later extended the holding of *Citizens United* to apply not only to prohibitions on independent expenditures, but also to *limits* to contributions to committees formed exclusively for the purpose of making independent expenditures. The court invalidated federal limits on contributions to independent-expenditure-only committees, finding that the government lacked any anti-corruption interest in imposing such limits.[51] The government had argued that limits on contributions to independent-expenditure-only groups prevented individuals making large donations from having undue influence over candidates, but the court firmly rejected this argument, reasoning that an interest in preventing undue influence was insufficient to sustain limits on independent expenditures post-*Citizens United*. One federal district court has observed that the D.C. Circuit's opinion "creates substantial doubt about the constitutionality of any limits on Super PAC contributions—including [the federal] ban on contributions by federal contractors."[52]

Significantly, however, the D.C. Circuit found constitutional the various reporting and disclosure requirements imposed on independent-expenditure-only committees by federal law. While acknowledging that these requirements do burden an independent-expenditure-only committee's First Amendment interests, the court found that the requirements "'impose no ceiling on campaign related activities'" and "'do not prevent anyone from speaking.'" Given the public interest in knowing who is speaking about a candidate and who is funding that speech, the

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[50] *Id*. at 913.

[51] *See Speechnow.org v. Federal Election Commission*, 599 F.3d 686, 695 (D.C. Cir. 2010).

[52] *See Wagner v. Federal Election Commission*, No. 11-Cv-1841 (JEB), 2012 WL 5378224, at *5 (D.D.C. Nov. 2, 2012).

court found this interest sufficiently important to justify the additional reporting and registration burdens on independent-expenditure-only committees that federal law imposes.

The United States Court of Appeals for the Seventh Circuit later invalidated state law limits on contributions to political committees to the extent that they restrict contributions to political committees formed for the sole purpose of making independent expenditures. In a 2011 decision, the court held that Wisconsin's application to independent-expenditure-only committees of its aggregate $10,000 cap on contributions to political committees violated the First Amendment.[53]

B. Challenges to Campaign Finance Restrictions Post-*Citizens United*

Following the decision in *Citizens United* and the lower federal court rulings that interpreted that decision as calling into doubt any limits on independent expenditures, a new wave of challenges has arisen with respect to so-called "pay-to-play" laws. These laws generally restrict or prohibit contributions by specific categories of donors who are presumed to be contributing to candidates in order to attract or retain government business. These laws may apply even when the contributions are unrelated to the business being sought, and they may also encompass contributions by those related to the entity doing business or seeking to do business with the government, including affiliated corporate entities, owners and executive employees, and children and spouses of such owners and employees. Thus far the federal appellate courts have upheld these laws, citing extensive records of outsize influence by government contractors. But they have yet to consider the constitutionality of a law banning independent expenditures by

[53] *See Wisconsin Right to Life State Political Action Committee v. Barland*, 664 F.3d 139, 154-55 (7th Cir. 2011).

those doing business with the government, and at least one court has expressed skepticism regarding the constitutionality of such a law.

The Court of Appeals for the Second Circuit has upheld the constitutionality of pay-to-play laws on two recent occasions. First, it considered Connecticut's ban on contributions by any contractor or prospective contractor doing business with the state to candidates from the specific government branch with which the contractor was doing business. The ban also included contributions by the spouse and dependent child of such a contractor. The ban on contractor contributions was enacted in 2005 in response to several corruption scandals in Connecticut, including allegations that former Governor John Rowland had accepted over $100,000 worth of gifts and services from state contractors in return for his assistance in securing lucrative state contracts. The Second Circuit upheld the ban, noting that the Connecticut legislature "had good reason to be concerned about both the 'actuality' and the 'appearance' of corruption involving contractors," because the State's "recent corruption scandals showed that contributions by contractors could lead to corruption."[54] The Second Circuit also upheld New York City's pay-to-play scheme, which reduced below the generally applicable campaign contribution limits the amounts that entities who have business dealings with the city, including lobbyists, can contribute to political campaigns.[55] In doing, so the court cited evidence of large donations by city contractors and noted that the city experienced "actual pay-to-play scandals in the 1980s." In addition, the United States Court of Appeals for the Fourth Circuit upheld a North

[54] *Green Party of Conn. v. Garfield*, 616 F.3d 189, 200 (2d Cir. 2010).

[55] *See Ognibene v. Parkes*, 671 F.3d 174, 179 (2d Cir. 2011).

Carolina law prohibiting lobbyists from contributing to the campaign of any candidate for the legislature.[56]

Most recently, a federal district court in the District of Columbia upheld the constitutionality of a federal ban on campaign contributions by federal contractors, considered one of the most stringent contribution restrictions in federal law. The federal provision prohibits anyone who contracts with the federal government from making "any contribution of money or other things of value . . . to any political party, committee, or candidate for public office or to any person for any political purpose or use."[57] While acknowledging that this language arguably encompassed independent expenditures by federal contractors in addition to direct campaign contributions, the district court declined to address the constitutionality of the provision as applied to independent expenditures, because the plaintiffs did not challenge the law on that basis. As applied only to direct contributions, the district court found the law constitutional.[58]

These recent decisions raise questions about the constitutionality of pay-to-play laws as they apply to independent expenditures, as well as to direct contributions, particularly where the law was passed without a substantial record of corruption or similar factual evidence supporting its adoption.

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[56] *See Preston v. Leake*, 660 F.3d 726, 741 (4th Cir. 2011).

[57] 2 U.S.C. § 441c(a).

[58] *See Wagner*, 2012 WL 5378224, at *5.

IV. Survey of Independent Expenditure Regulation Outside of Illinois

Part IV of this Report briefly discusses new developments at the state and federal level in the regulation of independent expenditures following the decision in *Citizens United*. This topic is also explored in Part VI of the Report in terms of the discussion of potential additional legislative or administrative actions related to Illinois's regulatory scheme.

A. At the Federal Level

Following the D.C. Circuit's 2010 decision invalidating federal contribution limits as applied to independent-expenditure-only committees, the Federal Election Commission ("FEC") has not enforced these restrictions. This has resulted in the proliferation of Super PACs at the federal level.

As a general matter, neither Congress nor the FEC has adopted additional requirements related to the regulation of independent expenditures and Super PACs since the *Citizens United* decision. However, Super PACs at the federal level are subject to reporting requirements and regulations related to the definition of coordination pre-dating *Citizens United* that apply to independent expenditures.[59] These FEC regulations provide that, when an individual or political committee pays for a communication that is coordinated with a candidate or party committee, the communication is considered an in-kind contribution to that candidate or party committee and is subject to the limits, prohibitions and reporting requirements of the federal campaign finance law.[60]

[59] These requirements are summarized generally at http://www.fec.gov/pages/brochures/indexp.shtml.

[60] *See* 11 C.F.R. § 109.21(b).

The FEC regulations establish a three-prong test to determine whether a communication is coordinated. A contribution is considered "coordinated" when it is (1) "paid for, in whole or in part, by a person other than [the political] candidate, authorized committee, or political party committee"; (2) "[s]atisfies at least one of the content standards" further elaborated in the regulation; and (3) "[s]atisfies at least one of the conduct standards" set forth in the regulation.[61] The following types of "content" satisfy the regulation's requirement: (1) electioneering communications; (2) a public communication "that disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate's authorized committee"; (3) a public communication "that expressly advocates . . . the election or defeat of a clearly identified candidate for public office"; (4) a public communication that clearly refers to an identified House or Senate candidate, an identified Vice Presidential or Presidential candidate, or an identified political party; or (5) a public communication "that is the functional equivalent of express advocacy."[62] Any of the following types of conduct satisfy the requirement: (1) where the communication is prepared at the "request or suggestion" of the candidate; (2) where the candidate is "materially involved in decisions regarding" the communication; (3) where the "communication is created, produced, or distributed after one or more substantial discussions about the communication" between the donor and the candidate; (4) the person paying for the communication contracts with a common vendor also employed by the candidate currently in the prior 120 days; or (5) a person previously employed by or acting as independent contractor to a candidate's political committee in the prior 120 days uses or conveys material information

[61] *Id*. § 109.21(a).

[62] *Id*. § 109.21(c).

related to the communication.[63] All three prongs of the test—payment, content and conduct—must be met for a communication to be deemed coordinated and thus an in-kind contribution by the FEC. Certain safe harbors also exist that will exempt certain communications from the coordinated communications requirements. Among these is the establishment of a firewall by a commercial vendor, former employee or political committee to prevent the sharing of information.[64]

B. By Other States

At the time of the decision in *Citizens United*, 22 states prohibited independent expenditures by corporations. All of those states no longer enforce those prohibitions. In most of the states, the prohibitions were repealed by the legislature, but, in states where the legislature failed to act, the attorneys general or other enforcement officials have declared that the bans will no longer be enforced.[65]

As of the date of this Report, at least seven states in addition to Illinois, as well as the District of Columbia, have either legislatively removed limits on contributions to independent expenditure committees or are subject to a court order preventing such limits from being enforced. These states are Connecticut, Vermont, Alaska, Hawaii, New Jersey, New Mexico and Wisconsin.[66] For example, in addition to repealing its ban on corporate expenditures,

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[63] *Id*. § 109.21 (d).

[64] *Id*. § 109.21 (h).

[65] *See* Robert M. Stern, *Sunlight State By State After* Citizens United (Corporate Reform Coalition 2012).

[66] Office of the Attorney General of the State of Vermont, Attorney General Issues Guidance Regarding Independent Expenditure PACs (July 25, 2012) (announcing that the Vermont Attorney General will no longer enforce the state's $2,000 statutory contribution limit), available at http://www.atg.state.vt.us/news/attorney-general-issues-guidance-regarding-independent-expenditure-pacs.php; *Yamada v. Weaver*, 872 F. Supp. 2d 1023, 1039 (D. Hawaii 2012) (permanently enjoining the state from enforcing contribution limits against independent-expenditure-only committees); Alaska Public Offices Commission, Approved Advisory Opinion Request AO 12-09-CD (June 6, 2012) (advising that state contribution limits will not be applied to independent-expenditure-only groups), available at http://aws.state.ak.us/ApocInterimFiles/AO%2012-09-CD%20McKeever%20-%20ADB%20-

Connecticut revised its election code to provide that "[a]ny individual, entity or committee acting alone may make unlimited independent expenditures."[67] These independent expenditures remain subject to disclosure requirements if they exceed $1,000.[68] In addition, Connecticut specifically provides that independent expenditures do *not* include expenditures based on information provided by a consultant of a candidate or expenditures for communications prepared by a consultant of a candidate or for consultant services related to a candidate's election if the consultant is also providing services to the candidate.[69]

%20APPROVED.pdf; State of New Jersey Election Law Enforcement Commission, Advisory Opinion 01-2012 (June 26, 2012) (same), available at http://www.elec.state.nj.us/pdffiles/ao/ao012012.pdf; *Republican Party of New Mexico v. King*, 850 F. Supp. 2d 1206, 1215 (D. New Mexico 2012) (preliminarily enjoining enforcement of state contribution limits against independent-expenditure only committees); District of Columbia Office of Campaign Finance, Interpretative Opinion 12-01 (Feb. 22, 2012) (advising that state contribution limits will not be applied to independent-expenditure-only groups), available at http://ocf.dc.gov/intop/opinions/op_12-01.shtm.

[67] CT ST Section 9-612(e)(1).

[68] *Id.*

[69] CT ST Section 9-601c(b).

V. Independent Expenditures in the 2012 Election

Part V of this Report provides an overview of independent expenditures in federal elections and in other states outside of Illinois.

A. At the Federal Level

Outside spending groups reported a record $1.28 billion in federal election expenditures through the end of the 2012 election cycle. Of this $1.28 billion, approximately 47 percent, or roughly $656 million, came from Super PACs. 60.4 percent of the $656 million raised by Super PACs came from just 132 donors giving at least $1 million each. The main pro-Obama Super PAC, Priorities USA Action, reported making $65,166,914 in independent expenditures[70]; the Romney group, Restore Our Future, Inc., spent $142,097,462.42.[71] By comparison, the Obama campaign reported direct contributions of $733 million, while the Romney campaign reported total direct contributions of $479 million.[72] The two major party presidential nominees reported raising a combined total of $313 million from small donors giving less than $200, which came from at least 1,425,500 individuals. Just 61 donors (individuals and institutions) giving an average of $4.7 million each to Super PACs matched the total contributions of these small donors. Of the $1.28 billion raised by outside groups in the 2012 federal election cycle, nearly one-quarter was so-called "dark money" that cannot be traced to an original source.[73]

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[70] *See* Sunlight Foundation Reporting Group Report on Priorities USA Action, available at http://reporting.sunlightfoundation.com/outside-spending/committee/priorities-usa-action/C00495861.

[71] *See* Sunlight Foundation Reporting Group Report on Restore Our Future, Inc., available at http://reporting.sunlightfoundation.com/outside-spending/committee/restore-our-future-inc/C00490045.

[72] *See* 2012 Presidential Campaign Finance Explorer, Wash. Post (last updated Dec. 7, 2012), available at http://www.washingtonpost.com/wp-srv/special/politics/campaign-finance.

[73] Demos, Election Spending 2012: Post-Election Analysis of Federal Election Commission Data (Nov. 9, 2012), available at http://www.demos.org/publication/election-spending-2012-post-election-analysis-federal-election-commission-data.

An examination of outside spending in the three election cycles preceding the 2012 election reveals just how pronounced the growth in outside spending has been. In the 2006 midterm election, which predated *Citizens United*, outside groups spent a total of only $68 million. In the 2010 midterm election, which followed directly on the heels of the Supreme Court's decision, outside spending totaled roughly $295 million. Compare this with a total of $1.28 billion in outside spending during the 2012 general election. Even more striking is the fact that the top 10 outside spenders in the 2012 election accounted for more than 54 percent of all outside spending.

For the first time, spending by outside groups in federal elections is approaching the level of spending by national party committees. In the 2004 general election, prior to *Citizens United*, national party committees spent a total of $1.23 billion—five times more money than outside groups. In 2012, by contrast, national party spending was on parity with that of outside groups, with a reported $1.31 billion in national party spending compared to $1.28 billion in outside spending. Thus, while national party spending has remained nearly constant, outside groups have increased their spending significantly.[74]

B. Expenditures in Other States During the 2012 General Election

There is anecdotal evidence of a large increase in spending by independent expenditure committees at the state level that mirrors spending at the federal level. Most states have yet to publicly release official data on outside spending in their 2012 races, however, and, therefore, this Report does not treat spending outside of Illinois in depth.

[74] Public Citizen, *Outside Money Takes the Inside Track* (Dec. 19, 2012), available at http://www.citizen.org/documents/outside-spending-dominates-2012-election-report.pdf.

VI. Discussion

Part VI of this Report discusses possible areas of legislative and administrative action related to independent expenditures.

A. Permitting Candidate Political Committees To Accept Unlimited Contributions if Independent Expenditure Committees Exceed Statutory Thresholds

As noted in Part II of this Report, the statutory threshold was exceeded only once in the 2012 general election cycle[75] in Illinois, in the 31st District Senate Race. In the 31st District race, the independent expenditure committee Personal PAC spent $159,000 in opposition to Republican Joe Neal's candidacy. Although this expenditure lifted the contribution limits on all candidates in the District 31 Senate race by operation of section 5/9-8.5(h-5) of the Election Code, neither candidate subsequently reported receiving a contribution in excess of the candidate contribution limits set forth in section 5/9-8.5(b) of the Election Code. Given this limited experience with the thresholds being exceeded, there is insufficient data to determine the efficacy of this provision. This provision should continue to be evaluated as additional data from elections for statewide office or from consolidated primary elections becomes available.

The 2012 election, however, brought to the surface an issue with respect to the allocation of independent expenditures among candidates. Currently, the statute does not prescribe a mechanism for allocating expenditures made by one independent expenditure committee on behalf of or against multiple candidates. For example, if an independent expenditure committee distributes a flier advocating for or against multiple candidates, it is unclear whether for reporting and threshold purposes the funds expended for the flier should be divided amongst the

[75] After the general election cycle, as part of a quarterly report filed with the State Board of Elections, information was disclosed that indicated that the statutory threshold was exceeded in one other legislative race. *See supra* note 47.

candidates or applied in full to each candidate. If the funds are to be allocated amongst the candidates, the statute currently does not prescribe a manner for doing so. One possibility would be to allocate to each candidate the full amount of the expenditure, and another possibility would be to prorate the expenditure among each candidate. Another option is to allocate the expenditure in specific amounts if such an allocation can be made based on the facts (for example, a single $50,000 expenditure is made for three different mailings in three different races, but the specific mailings cost $25,000, $15,000 and $10,000, respectively). This is an issue that will presumably arise frequently and deserves further attention.

B. Disclosure Requirements

The 2012 general election saw a large increase in spending by nonprofit organizations, most of them classified by the IRS under section 501(c)(4) of the Internal Revenue Code as social welfare organizations or under section 501(c)(6) as trade associations and chambers of commerce. Collectively, such nonprofits spent over $300 million in the 2012 general election, roughly four times as much as in the 2008 presidential election.

The proliferation of these nonprofit spending groups may be attributed to the fact that some business corporations prefer not to spend directly in their own names but, rather, to donate to intermediary entities that can pool donations, thereby magnifying their influence. These nonprofit groups often combine electoral advocacy with other forms of political action, including legislative lobbying, public education and issue advocacy. As a result, they are not "political committees" under federal election law and are, therefore, not subject to the general disclosure requirements applicable to such committees. Some urge the passage of new laws requiring that nonprofits making expenditures in state elections disclose the identity of their donors—though, as of the date of this Report, no state legislature has passed such a measure.

In New York, for example, Attorney General Eric T. Schneiderman recently proposed new regulations requiring any tax-exempt group that does business in the state to disclose the portion of its total spending that went to political campaigns.[76] The proposed regulation would require any organization making expenditures of over $10,000 in any given election year to disclose information related to each of its election expenditures, including the amount and purpose of the expenditures.[77] Further, groups spending over $10,000 would have to disclose the identity of each donor contributing more than $10,000 in donations during the reporting period.[78] Specifically, the proposed regulation requires that organizations disclose the following: "(i) the name and address of each donor who made covered donations in an aggregate amount of one hundred dollars or more during the reporting period; (ii) the employer of each such individual donor, if reasonably available; and (iii) the date and amount of each such covered donation."[79] "Covered donation" is defined as "any contribution, gift, loan, advance, or deposit of money or any thing of value made to a covered organization that is available to be used for a New York election related expenditure."[80] Outside spending groups are covered by the regulation to the extent that they are registered with the New York Attorney General and are not prohibited by Internal Revenue Code 501(c) from participating, or intervening in any political campaign on behalf of or against a candidate.[81]

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[76] *See* New York Attorney General Proposed Regulation 91.6(b)(1) (Dec. 12, 2012) ("The annual financial report filed by any covered organization shall include the amount and the percentage of total expenses during the reporting period that are election related expenditures."), available at http://www.ag.ny.gov/sites/default/files/press-releases/2012/Text_of_Proposed_Rule.pdf.

[77] *Id*. (b)(2).

[78] *Id*. (c)(1).

[79] *Id.*

[80] *Id*. (a)(9).

[81] *Id*. (a)(2).

New York's proposed regulation contains at least two provisions for protection of the identity of donors to 501(c)(4) organizations. First, the regulation does not require organizations to include information about donors whose donations are restricted so that funds cannot be used for electioneering. So long as organizations keep earmarked funds in separate bank accounts from funds that are used for electioneering, information on that donor need not be disclosed. Second, the regulation provides that, if public disclosure of a contribution or a donor's identity could cause undue harm, threats, harassment or reprisals, the organization or the donor can apply to the Attorney General's office for a waiver from disclosure of information concerning that donor.[82]

Following New York's lead, California state legislators have introduced bills in the State Assembly with virtually identical language. The Los Angeles Times reported that the bills were prompted by an $11 million donation by an Arizona independent-expenditure-only committee to a California campaign committee. The campaign used the donation to oppose Governor Jerry Brown's tax increase initiative, among other initiatives. When state election officials sued the Arizona group to force disclosure of the identity of the donors behind the $11 million donation, they discovered that the money had been contributed by two other 501(c)(4) organizations, which, under federal law, are not required to disclose the identity of their donors. This failed attempt at disclosure was the impetus to the effort to strengthen California's disclosure regime.[83]

The constitutionality of these proposals to require the disclosure of donor identity is very much an open question. There is Supreme Court authority on both sides of the issue. In a 1958 case involving Alabama's attempt to determine whether the NAACP was conducting business in

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[82] *Id*. (h).

[83] *See* Michael J. Mishak, *Lawmakers Try to Curb Anonymous Political Donations in California*, L.A. TIMES, Dec. 29, 2012, available at latimes.com/news/local/la-me-secret-donors-20121230,0,2074161.story.

the state and so required to register with the state as a foreign corporation, the Court found that Alabama's forced disclosure of NAACP's membership constituted a violation of the Due Process Clause of the Fourteenth Amendment.[84] In doing so, the Court recognized the "vital relationship between freedom to associate and privacy in one's associations."[85] It reasoned that "compelled disclosure of affiliation with groups engaged in advocacy may constitute [an] effective [] restraint on freedom of association."[86] Opponents of heightened disclosure rely heavily on this precedent for the proposition that disclosure requirements can so burden rights of association and speech that they violate the First Amendment.

More recently, however, the Supreme Court has approved disclosure regimes in the election context. In *Citizens United* itself, the Court rejected a challenge to federal disclosure requirements, emphasizing that "disclosure is a less restrictive alternative to more comprehensive regulations of speech."[87] The Court did address allegations that "disclosure requirements can chill donations to an organization by exposing donors to retaliation," stating that an exception to disclosure could be warranted if a specific group presented evidence of harassment, but it concluded that the record before the Court did not support an exception for Citizens United itself.[88]

Also, in *Doe #1 v. Reed*, decided six months after *Citizens United*, the Supreme Court upheld the disclosure of the names and addresses of individuals who had signed a referendum

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[84] *Nat'l Ass'n for the Advancement of Colored People v. State of Ala*., 357 U.S. 449, 462 (1958).

[85] *Id.*

[86] *Id.*

[87] *Citizens United*, 130 S. Ct. at 915.

[88] *Id.* at 916.

petition in Washington State.[89] The petitioners sought to bring a law recently passed in the state extending "everything but marriage" benefits to same sex couples to a voter referendum; they contended that state disclosure of their identities would violate the First Amendment. The Court first considered the application of the state disclosure rules to voter referendums generally, finding the disclosure of the referendum's signatories to be justified by Washington's constitutionally substantial interest in "preserving the integrity of the electoral process" by combating fraud, "ferret[ing] out invalid signatures caused . . . by simple mistake" and "more generally [in] promoting transparency and accountability in the electoral process."[90] The Court left open the possibility that the signatories could raise an as-applied challenge to the disclosure regime but did not specify how that would be accomplished.[91]

In sum, the Supreme Court in recent years has looked favorably on disclosure requirements in both state and federal election law. Perhaps because the Court has invalidated limits on independent expenditures as a source of regulation of campaign spending, it has appeared more willing to endorse strict disclosure regimes. But it has yet to be confronted with a measure on a par with that most recently proposed by New York or California.

Illinois law previously required that any not-for-profit corporation that "accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding $5,000" register with the State Board of Elections and comply with disclosure requirements.[92] This requirement was repealed as part of Public Act 96-832 on the basis that not-for-profit corporation contributions to candidate political committees would be limited to

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[89] *See Doe # 1 v. Reed*, 130 S. Ct. 2811, 2815 (2010).

[90] *Id*. at 2819.

[91] *Id*. at 2821.

[92] 10 ILCS 5/9-7.5, which was repealed by Public Act 96-832.

$10,000 in an election cycle. As a result of the court decisions and statutory amendments after the enactment of Public Act 96-832, not-for-profit corporations can make unlimited contributions to independent expenditure committees. The re-enactment of this requirement[93] is a method that could be utilized to promote greater disclosure of not-for-profit corporation political activity.

C. Coordination Between Candidates and Independent Expenditure Committees

A third area for possible legislative or administrative action relates to further definition of coordination between candidates and independent expenditure committees. Currently, Illinois law provides that an expenditure is considered "independent" if "it is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign."[94] No further definition or regulation related to the meaning of this provision has been adopted in statute or by rule.

At the federal level, regulations pre-dating *Citizens United* provide some regulatory framework related to the meaning of coordination as it relates to independent expenditures.[95] In addition, a bill has been introduced in the United States House of Representatives that would effectively prohibit the type of candidate-specific Super PACs as they existed in the 2012 presidential campaigns. The Empowering Citizens Act, H.R. 6448, introduced on September 20, 2012, provides the first comprehensive federal proposal post-*Citizens United* related to the

[93] The requirement could be tailored in such a way that it would only encompass not-for-profit corporations that engage in independent expenditure activity (for example, by not applying to not-for-profit corporations that solely make contributions to political committees subject to contribution limits), and the requirement could include certain donor identity opt-out provisions similar to the New York Attorney General's proposal described above.

[94] 10 ILCS 5/9-1.15.

[95] *See supra* Section IV.4.

coordination regulations now in place. The Act defines a candidate and Super PAC to be coordinated where:

- The Super PAC is directly or indirectly established by or at the request or suggestion of, or with the encouragement of, or with the express or tacit approval of, the candidate or the agents of the candidate it supports; or

- The candidate or the candidate's agents solicit funds or engage in other fundraising activity for the Super PAC, including by providing or sharing fundraising lists with the Super PAC; or

- The Super PAC is established, directed or managed by former political, media or fundraising advisers or consultants to the candidate or entities controlled by the candidate; or

- The Super PAC has had more than incidental communications with the candidate or the candidate's agents about the candidate's campaign needs or activities or about the Super PAC's possible or actual campaign activities with respect to the candidate or the candidate's campaign; or

- The Super PAC has retained the professional services of any person who, during the same election cycle, has provided or is providing professional services relating to the campaign to the candidate or the candidate's campaign.

If the Super PAC is deemed "coordinated" with the candidate's campaign under the definitions in the law, then its expenditures are treated as direct contributions to the campaign and, as such, are subject to existing limits on direct contributions.

D. Disclosures by Federal Super PACs

A fourth area for potential legislative or administrative action lies in revising administrative regulations that provide that compliance with the state disclosure requirements is satisfied if an independent expenditure committee submits proof that it has satisfied the FEC's disclosure requirements. Currently, Illinois State Board of Elections Rule 110.60(b) permits any political committee filing FEC reports to "choose to comply with the provisions of Article 9 of the Election Code by so indicating on a Statement of Organization (Form D-1) filed with the State Board of Elections." If a political committee registered with the FEC and the State Board

of Elections chooses to comply solely with FEC filing requirements, it is not subject to Illinois's requirements to disclose contributions of $1,000 or more within five business days or within two business days in the 30 days before an election. At the federal level, no reporting of contributions received in the last 20 days[96] before an election is required by independent expenditure committees until after the election.[97] An independent expenditure committee registered solely in Illinois and not with the FEC is required to disclose any contribution of $1,000 or more within two business days during this period. Legislative or administrative action could be taken to require independent expenditure committee reporting in this instance or more generally to require that any Illinois reporting requirements that are more stringent than federal reporting requirements to be followed by any political committee that is registered both with the FEC and the State Board of Elections.

E. Enhanced Reporting of Independent Expenditures Prior to an Election

Current Illinois law requires that any political committee that makes independent expenditures of $1,000 or more within 30 days before an election must disclose those expenditures of at least $1,000 within five business days.[98] At the federal level, committees have an ongoing obligation to report independent expenditures aggregating $10,000 or more within 48

[96] The 20-day window applies to federally registered independent expenditure committees that participate in a federal election and are required to file a federal pre-election report covering the period up to 20 days before the election. If in a certain year a federally registered independent expenditure committee does not participate in the federal election but does participate in an Illinois election, then the federally registered independent expenditure committee's last report of contributions made before the election is through September 30. The committee does not report until after the election contributions of $1,000 or more received between October 1 and the date that is two business days prior to Election Day, while the same committee registered solely in Illinois would be required to report such contributions prior to Election Day.

[97] Principal campaign committees of candidates are required to disclose contributions of $1,000 or more received after the 20th day and prior to 48 hours before an election, but this requirement does not apply to independent expenditure committees.

[98] 10 ILCS 5/9-10(e).

hours[99] and are obligated to disclose independent expenditures aggregating $1,000 or more within 24 hours if expended within 20 days before an election.[100]

In order to promote more rapid disclosure of independent expenditures before an election, the five business day reporting requirement could be changed to two business days. In order to obtain disclosure of independent expenditures of $1,000 or more for a longer period of time before an election, the disclosure obligation could apply for the period 30 days before an election or since the end of a committee's last quarterly report, whichever is great. For example, for a March primary election, the period would then commence as of January 1 instead of 30 days before the primary or, for a November general election, the period would commence from October 1 instead of 30 days before the election. However, for an April consolidated election, the period would commence 30 days before the election rather than April 1.

F. Public Financing of Elections

Another method of addressing unlimited independent expenditures in elections is through the adoption of one or more methods of promoting public financing of elections. The Election Code required the Task Force to issue a report in 2011 regarding public financing of Illinois elections.[101] That report described several potential public financing alternatives for Illinois.[102] The first alternative discussed was a comprehensive public financing system in which the State would make one-time, lump sum grants of public funds to candidates who meet certain eligibility criteria. In exchange for receiving the public funds, the candidates would agree to forgo further private fundraising and abide by other restrictions on their campaigns. The second model

[99] 11 CFR 104.4(b)(2), e(2)(ii) and f; 109.10(c).

[100] 11 CFR 104.4(c), e(2)(ii) and f; 109.10(d).

[101] 10 ILCS 5/9-40(d).

[102] *See* Part VI, Public Campaign Financing and Illinois Elections, Illinois Campaign Finance Reform Task Force, December 30, 2011.

discussed in the report was a hybrid public financing framework in which the State would match small dollar contributions by private donors with public funds. As with the first model of lump-sum public grants to candidates, this second model would apply only to candidates who meet certain eligibility criteria and opt in to the system. One beneficial feature of this second framework is that it encourages individuals to make small dollar contributions. The third model discussed in the report was a small dollar match that would apply to all candidates in an election, not only those who opt in to a public finance system. This model also encourages individuals to make small dollar contributions but would be "contributor-specific," rather than "candidate-specific," and would apply to all contributions up to a certain amount received by all candidates so long as the candidates met certain viability thresholds. Finally, the report discussed a fourth alternative in which the State would provide tax incentives for all or a portion of an individual's political contributions. This is also a "contributor-specific" rather than a "candidate-specific" model that is intended to encourage small dollar contributions. However, it would apply by giving a tax credit up to a certain amount to individuals who make political contributions, rather than providing a small dollar match to candidates for such contributions.

A public financing system in which candidates choose to participate has the ability to promote public perceptions related to the integrity of the political process. A public financing system in which small dollar donations are matched or donors receive a tax incentive for small dollar contributions has the ability to promote more public involvement in the political process. Even if a candidate chooses to participate in a public financing system, however, unlimited independent expenditures may still be made by outside parties to support the candidate or oppose the candidate's opponents. But, while independent expenditure spending will far exceed small

dollar donations, even with a public match or tax incentive, expanded public involvement in the political process may expand the number of voices in the process and the impact of those voices.

APPENDICES

Appendix A

Task Force Meeting Minutes

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

April 5, 2012, 1-3 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees
Members
Chicago:

Lindsay Anderson, Chair
Senate President Pro Tempore Don Harmon
Majority Leader Barbara Flynn Currie
Dawn Clark Netsch
Joe Seliga
William McNary
Michael Kasper
Mayor John Noak

Springfield:

Todd Maisch

Members Absent

Deborah Harrington
Jo Johnson

Chicago:

Governor's Office
Sarah Myerscough-Mueller
Lieutenant Governor's Office
Mark Schauerte
State Board of Elections
Andy Nauman
Steve Sandvoss
IL Campaign for Political Reform
David Morrison
Lindsey Drummond
Mausour Fidaous
House Republican Leader's Office
Andrew Freiheit

Springfield:

State Board of Elections
Cris Cray
Rupert Borgsmiller
Sharon Steward
Tom Newman
Senate President's Office
Giovanni Randazzo
Speaker's Office
Tiffany Elking
Illinois Public Radio
Justin Kabbes

Chairperson Anderson began the Campaign Finance Reform Task Force at approximately 1: 15 p.m. Members Anderson, Harmon, Currie, Netsch, Seliga, McNary, Kasper and Noak were present in Chicago; Member Maisch was present in Springfield. Members Harrington and Johnson were absent. The first order of business was introductions of all present in Chicago and Springfield.

Following introductions, the discussion began with Chair Anderson speaking to the public finance report that was submitted to the Governor and General Assembly on December 31, 2011. While the report is complete, the Governor the discussion should not end there on public finance and would like the Task Force to keep it in their minds going forward. While no official feedback has been received from the Governor or the General Assembly, Chairwoman Anderson said that the Task Force would continue to discuss the topic and revise their position as needed.

Chairwoman Anderson moved on to the next agenda item that being the upcoming contribution limits report. She explained the Task Force's next charge, to study and make recommendations related to the contribution limits implemented in the new campaign finance law by September 30, 2012. Anderson asked for a volunteer from the Task Force members to be the lead on this report. Member Kasper offered to be the lead. Member Netsch suggested the Task Force get data on contributions, at least through this year's primary, to begin the analysis of what, if anything, the new law has done to contributions. Seeing where campaign funding is coming from and how much there has been is the first step. Member Seliga suggested comparing this data with a primary in which there were no limits. The Board of Elections was asked if this task was doable to which they responded that it was; the Task Force and SBE will work together to get data to compare two primaries; Member Seliga volunteered to work with them on getting the correct information for the Task Force.

In further discussing this request, it was decided that the main comparison should be between this year's primary (2012) and another redistricting year's primary (2002). There may be need to ask for specific committee contributions as opposed to just general contributions, whether that be candidate committees or political party committees. Member Seliga will work with SBE to formulate useful data to present to the Task Force with a draft of the request coming to the Task Force for their approval in the next one to two weeks. The goal, for the actually SBE data is one month.

The next agenda topic was other issues, specifically the Super PAC decision in *Personal PAC v. McGuffage et al.* Member Kasper posed to the State Board: how will this decision work with regards to the upcoming general election? The State Board has amended their D-1 Statement of Organization to include a check box for "Independent-Expenditure-Only PAC." SBE would like there to be legislation passed that adds these Political Action Committees into the Election Code. The Board also asked questions as to the coordination between IE PACs and other PACs as well as the enforcement for such PACs including disclosure requirements which was not addressed in the lawsuit. Member Kasper agreed with the State Board in that legislation is necessary for this. Member Currie asked whether the FEC has any system for such PACs. It was stated that the FEC does content standards and conduct standards tests on contributions to decide whether there is coordination. Should/will this coordination standard need to be replicated in Illinois? Without something in place, litigation is a possibility.

Discussion continued on the Independent Expenditure Organization (IEO) subject. Member Seliga asked how Illinois could legislate IEOs – would penalties need to be assessed.

Member Kasper noted that as states continue to limit contributions, so they perpetuate these IEOs. State Board General Counsel Steve Sandvoss asked how far the oversight should go and whether it should be modeled after the federal system. Member Kasper volunteered to work with the State Board of the topic of IEO-related legislation to monitor them. Member Harmon noted that there is a provision in the new law that states, if the federal limits are thrown out, then Illinois' limits will be as well. Discussion moved to the lawsuit *Center for Individual Freedom v. Lisa Madigan et al.* In it, the Center for Individual Freedom challenges the new campaign finance law saying that certain provisions, including the disclosure portion are unconstitutionally vague and overbroad. Member Kasper, per Member Maisch question on the legislation, stated that the language should create an Independent Expenditure committee/organization category requiring disclosures and some sort of structure. Member Maisch questioned whether it was too soon to put this into the law because the IEOs are still so new and are in murky territory at this point.

Member Maisch questioned whether the contribution limits should be repealed completely. He would like to see the legislature consider if the limits are in the best interest of the State and is of the opinion that at some point limits will probably be barred across the U.S., Missouri having thrown theirs out already.

Member Kasper moved for the Task Force to draft explicit disclosure of Independent Expenditure Organizations; Member Harmon seconded. The Task Force was unanimous in its approval. Chairwoman Anderson requested the draft language be shared with the Task Force, via email, within the next two weeks.

Member Maisch made a motion to encourage the legislature to repeal the contribution limits. The motion was not seconded. Member Currie, as the House Majority Leader, does not feel the General Assembly should take up the topic at this time. Members Seliga and Noak also said that it is too early to tell if this discussion is needed. The topic, while not being voted on, will be placed at the top of the agenda for the next Task Force meeting.

Chair Anderson moved down the agenda to discuss State Board of Elections-time sensitive issues, asking what, if any, still need to be addressed. The municipal elections cycle question of even vs. odd election years was brought up. The State Board would like some clarification in the language currently set in statute for this Section (10 ILCS 5/9-40(f)). Additionally, Member Netsch brought up to oft-discussed aggregation issue. Member Harmon explained that aggregation was part of the trade-off at the time of the law's negotiations. With the real-time disclosure of $1,000 or more, there would not be aggregation. Member Kasper suggested putting this issue up for a vote at a future meeting.

SBE General Counsel Sandvoss brought up the three issues that were previously discussed and language was drafted to make changes to the law. The federal to state language regarding unlimited transfers and the raffles disclosure language were both approved by the Task Force last year, but neither have been introduced. Members Currie and Harmon discussed using two shell bills to address the matters. Member Harmon reported that the conduit contributions language, of which he is the chief sponsor, is now in the House. SBE questioned what would be disclosed as itemized in relation to the changes made in this bill. Member Harmon suggested a Rule to make it clear, if necessary. Member Kasper suggested it be treated as an in-kind to which the State Board replied that that would require a separating reporting. It was suggested that SBE should only worry about the overage amount, beyond the $1,500 that is to be set in statute via Senate Bill 3722 (in House Elections & Campaign Reform). It was also suggested that maybe a cap, per quarter, could be put into statute to monitor these funds.

The issue of self-financed candidates was also discussed. There has been talk of these candidates reporting money that may not exist. When a candidate declares himself as such a candidate, caps are thrown out. It was decided by the Task Force members that they would put this on the comprehensive list for discussion at a later meeting.

Chairwoman Anderson wrapped up by summarizing the next steps that will be taken by the Task Force. The public finance report and follow-up will be discussed at the next meeting as will leadership limits that are to be reported on by September 30, 2012. All additional issues that were noted to be discussed at the next meeting will be put on the next agenda. Members Seliga and Kasper will be following up with SBE data for the next report in the coming weeks to be reviewed by the Task Force. With that, Chair Anderson asked for any other business. With no one having anything, Member Kasper motioned to adjourn the Task Force meeting with Member Currie giving a second. The Task Force was adjourned at 2:25 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

June 21, 2012, 1-3 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees
Members
Chicago:
Lindsay Anderson, Chair
Senate President Pro Tempore Don Harmon
Majority Leader Barbara Flynn Currie
Dawn Clark Netsch
Joe Seliga
William McNary

Springfield:
Jo Johnson

Members Absent
Deborah Harrington
Mayor John Noak
Mike Kasper
Todd Maisch

Chicago:
Governor's Office
Sarah Myerscough-Mueller
Benno Weisberg
Eric Anders
John Dougherty
Inna Bilmes
Scot Marsik
Lieutenant Governor's Office
Mark Schauerte
State Board of Elections
Andy Nauman
IL Campaign for Political Reform
David Morrison
House Republican Leader's Office
John Slocum

Springfield:
State Board of Elections
Cris Cray
Rupert Borgsmiller
Steve Sandvoss
Sharon Steward
Tom Newman
Senate President's Office
Giovanni Randazzo
ICPR & CHANGE Illinois

Chairperson Anderson began the Campaign Finance Reform Task Force at approximately 1: 07 p.m. Members Anderson, Harmon, Currie, Netsch, Seliga, and McNary, were present in

Chicago; Member Johnson was present in Springfield. Members Harrington, Noak, and Maisch were absent. The first order of business was introductions of all present in Chicago and Springfield. Chairwoman Anderson then went over the agenda and the documents that were provided to the Task Force prior to and during the meeting. The meeting minutes from April 5, 2012, were discussed with Member Currie moving to approve the minutes and Member Seliga seconding that and with a unanimous vote the minutes were approved.

Chairwomen Anderson then laid out the discussion for the meeting, with topics including Senate Bill 3722, the upcoming report, public finance, and the schedule for upcoming meetings and public hearings for the report. Public finance was the first discussion topic with the Chair explaining that she wanted to keep this an ongoing topic beyond the report the Task Force issued. Chairwoman Anderson also provided an updated on the North Carolina judicial public finance system as a portion of it was struck down by the courts. The matching funds portion was declared unconstitutional, similar to the Arizona decision brought to the Supreme Court.

Senate Bill 3722 was the next discussion topic. Member Netsch voiced her desire to see an amendatory veto from the Governor on the legislation. Members Currie and Harmon, the sponsors of the legislation, explained to the Task Force that something needed to be done after the recent court decisions in the 4th District Court of Appeals as well as the Personal PAC case. The legislature wanted to make sure that the Independent Expenditure Committees were required to disclose themselves and their contributions while also making sure that individuals are not disadvantaged when SuperPACs come into their race. Most members agreed that the federal courts created several holes in the state law with their recent decisions and that something ultimately needed to be done, particularly with the elections a few months away. Members Harmon and Currie stated that SB 3722 is a first attempt at addressing these federal decisions and that the discussion should continue. Member Netsch didn't disagree that something should be done; only that she thought further discussion should be had before any legislation is enacted. Harmon and Currie thought it was better to act sooner and continue to refine the law as it is put in practice.

Members Seliga and Currie both expressed concern about the collusion/coordination aspect of the SuperPACs and the need for a clearly defined definition in statute. Member Seliga also brought up the topic of an expansion of pay-to-play to encompass SuperPACs. The current law does not include these SuperPACs, but could maybe be expanded to include, though there was talk of the virtual certainty that that would lead to a court challenge. It was mentioned that at the federal level, the SuperPACs are controlled by pay-to-lay, but that blended PACs do not apply. An example was given of the Governor's Associations on both sides during the 2010 election. Member Netsch asked when the Governor might take action on the bill; per Chairwoman Anderson, the Governor is still reviewing the legislation.

An explanation was given for the inclusion of the limits throw-out language. It is the same as the millionaire's amendment language and was an effort to not leave candidates in the lurch if a SuperPAC comes into their race. A question was asked regarding PACs against a caucus or multiple members, advocating for or against a group. Would allocation of money be used? The Task Force will continue looking at that issue as it is not resolved in the legislation or statute currently.

Chairwoman Anderson thanked Members Harmon and Currie for including all of the Task Force's recommendations made at the end of last year in the legislation. Those recommendations included the conduits language, the raffles language, and the transfers' clarification.

The Task Force then moved on to the contributions report that is due September 30th. Member Seliga and Chair Anderson worked with the State Board of Elections on a request for information. Member Seliga explained the request for a list of the committees who filed statements of non-participation for the 2012 primary election as well as the D-2s from these non-participation committees because contributions no longer apply to them. This provision sunsets next year so the question should be whether or not it should be as well as how much the committees are spending without the application of limits. It was decided that Chair Anderson and Members Seliga and Kasper would form a subcommittee to analyze the data prior to the next meeting of the Task Force with Giovanni Randazzo of Senate Democratic staff assisting.

The discussion then turned to the scheduling of upcoming meetings and public hearings. Member Netsch requested a change from the September 27th date currently scheduled. Because that date is very close to the deadline for the next report, it was decided that the next Task Force meeting would be moved to Thursday, September 13, 2012, from 1:00 – 3:00 p.m. The public hearings for the report have been scheduled for July 19th in Springfield and July 26th in Chicago. The Chair said the dates would be confirmed within the week after speaking to the absent members. A deadline of next week was set for any additional information requests to be sent to the State Board. The documents from the State Board will be sent out with the confirmation email next week.

The next issue brought before the Task Force is the comprehensive issues list. Chairwoman Anderson requested the addition of a ban on gaming contributions to the list because SB 1849, the gaming bill, does not contain any such language. Member Johnson explained that in the 1980's there was a ban in place on the horse racing and insurance industries with national banks also included in there. The national banks were put in federal law, but the horse racing and insurance industries were both repealed. As a member of the General Assembly then, Member Netsch discussed the discussion that ensued, specifically the questions as to whether it was right/fair to restrict one group or another. The Task Force raised questions as to whether other states with gaming had such bans/restrictions in place and how they have been done.

The State Board then listed their requests for items to be included on the list. Cris Cray asked the Task Force to discuss raising the threshold for committee registration from $3,000, to $5,000. Member Harmon asked when the threshold was raised from $1,000, to $3,000; it was done in 1998. The reasoning behind this is the number of penalties to small groups for forgetting to re-register because they lack the resources to do reports, audits or even hire attorneys. Member Harmon then suggested a safe harbor instead, such as, if a committee leaves a small amount for so long with little movement, that they would not be required to file. Members Harmon and Currie asked how many committees are between that $3,000 and $5,000. The State Board said they would work on that number.

Member Seliga then asked if there were any items on the list that the State Board thought the Task Force should focus on in the short-term. They requested the elections cycles issue with odd-year and consolidated elections (municipal). Chairwoman Anderson promised to follow-up with Member Noak on this issue.

The December meeting, currently set for December 6, 2012, was moved due to veto session, to November 15th from 2:00 – 4:00 p.m., per a request from Member Netsch. There were no objections to the change.

Chairwoman Anderson asked for any additional issues. Member Johnson brought up the potential addendum to the public finance report. There were numbers switched on the lists of contributions between State Senator Bill Brady and Governor Pat Quinn.

The meeting was adjourned by Chairwoman Anderson at 2:00 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

September 13, 2012, 1-3 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees

Members

Chicago:
- Lindsay Anderson, Chair
- Honorable Don Harmon
- Honorable Barbara Flynn Currie
- Joe Seliga
- Mike Kasper
- Deborah Harrington
- Honorable John Noak

Springfield:
- Jo Johnson

Members Absent
- Dawn Clark Netsch
- Todd Maisch
- William McNary

Chicago:

Governor's Office
- Sarah Myerscough-Mueller
- Amalia Rioja
- Benno Weisberg

Lieutenant Governor's Office
- John Lanctot

State Board of Elections
- Andy Nauman

IL Campaign for Political Reform
- David Morrison

House Republican Leader's Office
- John Slocum
- Andrew Freiheit

Springfield:

State Board of Elections
- Cris Cray
- Rupert Borgsmiller
- Steve Sandvoss
- Sharon Steward
- Tom Newman

ICPR & CHANGE Illinois
- Jim Bray

Chairman Lindsay Anderson convened the Task Force meeting at 1:05 p.m. Members Anderson, Currie, Seliga, and Harrington were present in Chicago; Member Johnson was in Springfield. Members Clark Netsch and McNary were absent; Members Harmon, Noak, and Kasper arrived late. The Chair started with industry-specific contribution bans because the

meeting could not officially get started without a quorum. Governor's Office legal staff members Amalia Rioja and Benno Weisberg discussed a contribution ban on gaming for the State of Illinois. They explained that the Governor included the proposal in his veto message, filed August 28, 2012, for Senate Bill 1849, the "gaming bill." The General Assembly will take up the veto in November.

The Governor's Office completed a 50-state survey on gaming laws and contribution bans within the gaming laws, focusing on a handful of states that have bans that have held up to various challenges, including Iowa, Indiana, and Pennsylvania. They took particular interest in Pennsylvania because the major parts of the ban withstood a challenge in state court. Pennsylvania's state court struck down part of their ban as too broad so the legislature took it upon themselves to fix those portions. They have drafted language for a gaming contribution ban for Illinois, if a gaming bill is to be introduced again, that they believe will stand up to any challenges. The legislation would prohibit contributions made by applicants, upper management, owners, and key employees of casinos, racinos, and video gaming licensees. The aim is to restrict the flow of money from the gaming industry to proactively curb corruption when and if there is gaming expansion in Illinois. The ban will also apply to all political action committees and all SuperPACs. It will cover all levels of government but federal, everything from statewide to municipal to township governments.

The members of the Task Force questioned Amalia and Benno on the potential legislation and the idea of the ban. There were questions on the industry-specific bans that were put in place by the legislature previously, the insurance and the horseracing industry. Member Johnson agreed to look back at the transcripts from the repeals of the insurance industry contribution ban and the horseracing ban. The Task Force will receive any state comparisons as well as a draft of the legislation, when available.

Chair Anderson then moved the discussion to the approval of minutes. Starting with the June 21 Task Force meeting. Member Currie moved to approve the minutes, Member Harrington seconded, and with a unanimous 7-0 vote, the minutes were approved. Anderson then asked for approval of the minutes from the public hearings held on the September 30 report provisions. With Member Currie moving and Member Harmon seconding, the minutes of both hearings were unanimously approved.

With that, the Chair moved the discussion to the September report itself. She turned the floor to Member Seliga to explain the provisions of the Campaign Finance Act and the report's specifics. He explained that the two provisions, Section 9-8.5 (c-5) and (c-10), deal with the contributions made to political party committees from candidate political committees and other political party committees. After working with the Board of Elections to gather data, it was determined that no political party committee that had filed a statement of nonparticipation received such a contribution over $50,000, and prior to the law's enactment only a handful of these political party committees had received such contributions over $50,000. Member Seliga also explained the confusion with the overlap in dates with the general election, the consolidated primary, and the subsequent dates for petitions and statements of nonparticipation. He explained that the draft says the sunset found in the provisions should move forward and take effect.

Members proceeded to ask questions of the draft and make small, technical changes to several things. Member Harmon explained that, from what he could remember of the bill's passage, these provisions were included at the request of reform groups. Member Harrington stated her belief that the provisions should not sunset because in her opinion it would open the system up to outside corruption. Senator Harmon pointed out that the section does not impact money that is coming into the system from the outside, but applies to money once it is within the system, and asked how allowing the sunset could open the system up to outside corruption. She said that there was a general possibility of corruption and while the research and data was helpful, with only two years to study, that was not enough background to make a decision one way or another. Members discussed the possibility that the provisions could be changed to apply only to the general primaries; they discussed the possibility of excluding the consolidated primaries because they believe it would clear up much of the confusion.

Member Harmon moved to take a vote on the report; Member Noak seconded. By a voice vote of six to one, the report will be recommended, pending approval of the edits. Member Harrington was the one dissenting member; Member Johnson suggested that the report included language that recognizes that this was not a unanimous vote.

Chairwoman Anderson then moved to the next topic on the agenda, consolidated election cycles (10 ILCS 5/9-1.9). Anderson asked the State Board of Elections to frame the issue; State Board Director Rupert Borgsmiller and Legal Counsel Steve Sandvoss asked about legislative intent because they are not clear on how to execute the law. The main question is whether or not those individuals elected to a four-year term in the consolidated primary and general elections in 2011 should have a new election cycle, specifically for contribution purposes, starting on July 1, 2013. They have interpreted the language as saying individuals would have 2 election cycles for contributions during their 4-year term. The other alternative is that the municipal cycle would be four years as it is for the constitutional officers and the county officials. The Board asked that the issue be resolved by 2013 so that they can tell the municipal officials what their election cycle is.

Member Noak spoke about subsections (1), (2), and (4) of Section 9-1.9 which are the areas at issue here. Subsections (2) and (4) parallel each other. Members Johnson and Harmon both agreed that the intention was that only the General Assembly (subsection (2)) should have the 4-year, 2-part terms which was done to equalize the two chambers. After more discussion on the topic, Chair Anderson asked that, for a short-term solution, a motion for a proposed change be made to make subsection (4) the same as subsection (1) instead of subsection (2). There were questions as to when this could get done, in veto, or whether an administrative rule change should be done first. Anderson then suggested that two things could be done: 1.) a letter from the Task Force to the State Board be drafted to provide guidance to the State Board on how to interpret the law and 2.) a recommendation be made of the Task Force to the General Assembly to propose a legislative change, consistent with the guidance, that would make the law consistent with legislative intent. Members Harmon and Currie moved and seconded, respectively, to do a letter to both the State Board and the General Assembly with the recommendation. Members Johnson and Harmon volunteered to work together on the legislation and letter.

Chair Anderson spoke to the larger discussion of upcoming report dates and issues. Public Act 97-0766 was signed into law this summer. This legislation which added provisions for Independent Expenditure Committees, also added a new reporting deadline for the Task Force. The Task Force will be required to issue a report (Section 9-8.5 (h-5)) on this issue by February 1, 2013. Then, on March 1, 2013, another report will be required of the Task Force. This one is more open and could be on any one of a number of topics including election cycles, leadership limits, or disclosure requirements. Members had suggestions for potential topics including caucus limits, term structures for municipalities.

Anderson moved the discussion to public finance. Member Seliga requested that the Brennan Center report entitled *Empowering Small Donors in Federal Elections* be sent to the Task Force and discussed. The report discussed the possibility of small money donations that would be legal. The discussion included the ideas for two systems: an income tax check-off or a tax credit with the possibility for requesting it be sent to one party instead of the general pot of money and that the credit might only be for individuals up to a certain income. Ohio currently has a system that the check-off is up to $50.00. The Task Force decided to study this issue, Chair Anderson volunteered the Governor's office to do research, including cost of a tax credit and a tax check-off.

Member Johnson brought to the attention of the Chair the fact that any official vote taken by the Task Force requires at least 7 affirmative votes to pass; she reminded the members that they voted on that number at a previous meeting. Because Member Kasper arrived late to the meeting, he missed the vote. Chair Anderson reopened the roll. Member Kasper voted "yes." Chair Anderson motioned to amend the vote to reflect the new vote; all members present affirmed.

The report will examine independent expenditure committees and make recommendations regarding the new provisions of the Election Code relating to these IECs. For this report, it will be necessary to hold at least 2 hearings prior to its submission. The Chairwoman suggested that one could be held during veto session or during early January session if it is scheduled at the State Board of Elections offices in Springfield. Chair Anderson then reminded everyone about the report "Sunlight State By State After *Citizens United*."

Chairwoman Anderson then moved on to the comprehensive list of issues, asking members if there was anything they would like to add. With no one speaking up, she then reminded everyone about upcoming meeting dates and deadlines. The November 15 meeting will begin at 2:00 p.m., instead of the usual 1:00 p.m. start time. February 1 is the deadline for the Independent Expenditures Report and March 1 is the next deadline for the broad report. Member Johnson moved to adjourn the meeting with Member Noak seconding. With that, the Task Force meeting adjourned at 2:30 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

November 15, 2012, 2-4 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees

Members

Chicago:
- Honorable Don Harmon
- Joe Seliga
- William McNary

Springfield:
- Jo Johnson

Phone:
- Dawn Clark Netsch

Members Absent
- Lindsay Anderson, Chair
- Honorable Barbara Flynn Currie
- Todd Maisch
- Mike Kasper
- Deborah Harrington
- Honorable John Noak

Chicago:

Governor's Office
- Sarah Myerscough-Mueller
- Benno Weisberg

Lieutenant Governor's Office
- John Lanctot

State Board of Elections
- Andy Nauman

IL Campaign for Political Reform
- David Morrison
- Whitney Woodward

League of Women Voters
- Paula Lawson

Mayer Brown
- Emily Rossi

Springfield:

State Board of Elections
- Cris Cray
- Rupert Borgsmiller
- Steve Sandvoss
- Sharon Steward
- Tom Newman

Senate Democrats
- Giovanni Randazzo

Member Joe Seliga began the meeting at 2:10 p.m. He explained that Chairperson Lindsay Anderson was sick so he would be serving as the Chair for today's meeting. He said that

because there were quite a few members absent, a quorum was not present so no substantive action could be taken. Introductions for individuals present in Springfield, Chicago, and by phone was then completed.

Member Seliga started with the gaming contribution ban language. He explained that the action item that would have the Task Force vote on the language would not take place due to the lack of quorum. Benno Weisberg from the Governor's Legal Counsel presented the gaming contribution ban language. Weisberg explained that in the veto of Senate Bill 1849, the Governor laid out his reasons for vetoing gaming expansion. Among those was the Governor's desire to put safeguards in place to ensure that corruption will be prevented in Illinois. One such safeguard that was mentioned was a strict ban on campaign contributions for individuals in the gaming industry, specifically those high-level owners and employees. Weisberg emphasized that the language was just a proposed draft and that the Governor's office welcomes feedback and comments.

Weisberg explained that a gift ban for the horseracing industry was still in place and that bans on liquor, insurance, and horseracing existed, but have since been repealed; it was noted that none of the bans was ruled unconstitutional at any point. Member Seliga let the Task Force know that Member Jo Johnson had worked with the Legislative Reference Unit to gather the background/transcripts from the industry-specific bans and their repeals.

Members then asked questions of Mr. Weisberg and discussed the idea/language as a whole. There were questions regarding Pennsylvania's ban as a portion of it was struck down. This was the last constitutional challenge to an industry ban and happened pre-Citizens United. Emily Rossi, an associate with Mayer Brown, spoke about the most recent decision out of the 2nd Circuit Court of Appeals that upholds New York City's pay-to-lay law limiting contributions by organizations and individuals who hold or seek to hold a contract with the city. Member Harmon questioned the constitutionality of the ban and questioned the inclusion of Chicago in the first Section while also having a specific Section for Chicago.

Member Seliga asked questions that were emailed from Member Mike Kasper; the questions included such areas as the breadth of the prohibition, specifically what elected officials are included in the ban and the applicability of bans at the school district level as well as the ability to regulate ballot initiatives and their committees. There were additional questions on the prohibition of Independent Expenditures considering the recent court cases ruling such things unconstitutional. Mr. Weisberg said he would take the questions back to the Legal Counsel and get the needed answers before the next Task Force meeting. Member Johnson mentioned her concern that the language was modeled after Illinois' current pay-to-play in regards to the disposal of money and that there are ongoing problems with that portion of the law.

The next topic for discussion was the September 30th report. Member Seliga gave formal confirmation that the report on Sections 9-8.5 (c-5) and (c-10) was submitted to the Governor, four legislative leaders, and the State Board of Elections. Members should have received a copy of the final report via email or at today's meeting. Member Netsch stated that had she been present at the September meeting when the report was approved, she would have voted no.

Member Seliga then moved the discussion to an update on public finance. After the conversations at the last Task Force meeting about tax check-offs and tax credits, the Governor's office is looking at methods of public financing and how they work in other states. The Department of Revenue is also taking a look at the options based on other states. That information will be provided at a future meeting. Member William McNary would like to propose New York's public finance system for Illinois.

The next report to be prepared and submitted by the Task Force is the Independent Expenditure Report, to be completed by February 1, 2013. Member Seliga explained to members that an associate at Mayer Brown, Emily Rossi, has been asked to help put together the draft report. The statute does require at least two hearings on the topic. The Task Force will need to schedule those soon. The goal is to have at least one in Springfield and one in Chicago, but ideally we could do one in each in December and then one in each in January with the January meetings have a draft report available. With no members having an objection, Chairwoman Anderson and Sarah Myerscough-Mueller will propose dates and send them to the Task Force.

Member Seliga mentioned that after the 2nd public hearing this month, in Chicago, there would be a Task Force meeting based almost solely on the report so as to provide guidance and an outline/structure for the report. Member Harmon mentioned that, for the January hearings and meetings, the Task Force should be mindful of the quarterly report dates. Members Seliga and Harmon then discussed what information would need to be gathered from the State Board of Elections that could be examined and used in the report. The State Board said they were willing to provide any information they could. The Task Force then discussed what reports would be most helpful. The final list of requests, to be sent to the State Board is as follows:

1. D-1s: For *all* Independent Expenditure Committees
2. A-1s: For *all* Independent Expenditure Committees
3. B-1s: October 7, 2012 – November 5, 2012
4. D-2s: Full reports for all Independent Expenditure Committees – September 30, 2012, and after January 15, 2013
5. Independent Expenditures: For *all* IEs made by political committees (July 1 – Sept 30)

A suggestion was then made that the January hearing for Springfield could be held during the lame duck session of the General Assembly, the dates of which are January 2nd to January 10th. The Chicago hearing could then take place later in January so as to take into account the January 15th quarterly report. Member Johnson then suggested that it may be necessary for the Task Force to submit a letter to the Governor and legislative leaders explaining that more time will be needed for this report. The members agree and decide to work towards the deadline and if they run out of time to get it adequately finished they will send a letter.

The next agenda item brought forth to discuss is consolidated election cycles. Member Seliga explained that the topic was discussed at the last meeting; the Task Force agreed that, in Section 9-1.9, subsection (4) should be the same as subsection (1) such that their election cycles should be tied to the office. There was some confusion as to who would be providing the State Board with a letter of recommendation for legislative change, the Task Force or the General Assembly.

Because the interpretation is being implemented by the State Board currently, the letter can wait for the next Task Force meeting.

Member Seliga then moved to the Task Force's comprehensive list of issues. He asked if members had any new items to include or any questions regarding items currently on the list and since no one did, he said there would be no discussion on it at this time.

The final topic of future meeting dates and deadlines was brought up. Member Seliga reminded the other members of the independent expenditure report deadline (February 1st), the December hearings and meeting which would be sent out, and the additional report due to be submitted by March 1, 2013. Section 9-40 includes this report deadline with an open subject matter that could include: enforcement mechanisms, receipt definitions, audits, election cycles for the General Assembly, or self-funded candidates. It was decided that this would wait until the December meeting with the full Task Force.

Member Johnson then suggested that the December and January hearings could work for both reports, such that testimony could be heard on a wide range of topics. Member Seliga promised to follow up with Chairperson Anderson. Member Netsch then asked the State Board if it would be possible to get a list of the sources for all funding (expenditures) of races in 2012. Cris Cray of the State Board said they are working with their IT Department on queries because of all the new reports that are required. Those large reports of all expenditures would not be ready until at least May. Member Seliga also suggested that the Illinois Campaign for Political Reform could help with some of that analysis as well.

Member Seliga adjourned the Task Force at 3:00 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

January 17, 2013, 1:00 PM – 3:00 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees

Members

Chicago:
- Lindsay Anderson, Chair
- Deborah Harrington
- Honorable Barbara Flynn Currie
- Honorable Don Harmon
- Joe Seliga
- William McNary
- Jo Johnson

Springfield:
- N/A

Phone:
- Dawn Clark Netsch
- Todd Maisch

Members Absent
- Mike Kasper
- Honorable John Noak

Chicago:
- *Governor's Office*
  - Sarah Myerscough-Mueller
- *Senate Democrats*
  - Ron Holmes
- *House Democrats*
  - Brandon Nemec
- *IL Campaign for Political Reform*
  - David Morrison
  - Whitney Woodward
- *League of Women Voters*
  - Paula Lawson
- *Mayer Brown*
  - Emily Rossi
  - Ranjit Hakim
- *Illinois PIRG*
  - Anu Dathan

Springfield:
- *State Board of Elections*
  - Cris Cray
  - Tom Newman
- *Senate Democrats*
  - Giovanni Randazzo

Chairwoman Anderson began the Task Force meeting with introductions for those members and individuals present in Chicago, Springfield, and by phone. She then asked that the minutes from the November 15, 2013, meeting be approved by the Task Force. Member Deborah Harrington moved with Member Barbara Flynn Currie seconding; the minutes were unanimously approved. The Chair then explained that at the next Task Force meeting, which would be scheduled later in the day, approval would be required for three sets of minutes: the

January 10th public hearing, the January 17th public hearing, and the January 17th Task Force meeting.

The discussion then moved to the draft outline and public hearing held earlier in the day. With the statutory deadline being at the end of this month, Chair Anderson suggested that the Task Force schedule one more meeting so that a draft report could be distributed and approved. Member Joe Seliga began the discussion of the report's contents by discussing the draft outline that was distributed prior to the two public hearings. He suggested that everything up to section 6 of the outline would be used in the final report as it contains factual information including the Task Force's charge for the report, the considerations when producing the report, and factual information on the report. He asked for any suggestions for edits or additions, possibly from the public hearings that could be used for Sections 1 through 5 of the outline; there were no comments from members.

Member Seliga then moved the discussion to section 6. He explained that there were three initial areas of discussion, prior to today's public hearing. The first being the provision added to the Election Code via Public Act 97-0766 that allowed for contribution limits to be thrown out if an independent expenditure of over $250,000 for statewide races and $100,000 for all others was given. While the data is limited because the state hasn't had a statewide election or a consolidated primary election since the provision was set, there were two legislative races that were affected in the last cycle: one was the Illinois State Senate race between Joe Neal/Melinda Bush and the other was the Illinois House race with incumbent Representative Dan Beiser. For the Senate seat the contribution limits were thrown out, but neither candidate received contributions exceeding the contribution limits. Information on the House race was limited.

The second area of discussion was the allocation of costs between races and candidates such that one large sum is given to multiple candidates in multiple races. The question is, how does the contribution count – as the large sum, as an even proportion between candidates, or spread out as it was disbursed to each candidate? The Chair asked if the State Board of Elections needed guidance on the issue. They said they did *not* have an opinion at the time. Member Seliga suggested that draft language within the report would be developed and discussed further at the next meeting to see if the Task Force wanted to make a specific recommendation. Two possibilities discussed were: (1) a pro rata reporting of IEs or (2) a single expenditure (lump sum) done on each individual report.

The third discussion topic was the disclosure requirements for politically active non-profits (501 (c)(4)s). There are several states currently considering increased disclosure of these entities. Member Seliga suggested that the Task Force could lay this issue out as an area of concern, but not necessarily make a recommendation at this time. Most of these non-profits give money elsewhere, but still have the opportunity to give in Illinois without having to disclose. There are contributions given in the most recent election (November 2012) that have an unknown source, whether it be a Federal PAC or a non-profit, due to the lax reporting requirements for those entities. This topic will have draft language in the upcoming report, but will wait for further discussion before a recommendation is given.

Another possible topic, related to the last one discussed, is the disclosure requirements for Federal PACs. Currently, at the federal level, they only require D-1-like reports, but no interim disclosure/reports of any kind. This means that money raised in October 2012 would not need to be revealed and reported until December 2012 which leaves gaps leading up to the elections. Supplemental A-1s are required by the state, but not by the FEC. This issue will be included in the discussion section for the Task Force to consider.

The issue of coordination between SuperPACs and committees is another topic. The question was asked as to what other jurisdictions are doing on this subject; information will be gathered. Member Don Harmon suggested that if the General Assembly acted on the disclosure issue first, that maybe they could act on coordination later because it could be more easily weeded out. No one could recall examples of this issue on the federal level when the question was raised by Member Currie. Member Johnson then asked about the federal rules and regulations on the subject. The federal rules which pre-date the Citizens United decision apply in the same way as in-kinds in Illinois' law. Member Seliga suggested that certain things could be done at the federal level that would reduce coordination all around. Other states would be looked at and draft language would be prepared so that the Task Force could review and go from there.

Member Seliga then moved the discussion to other topics, more secondary topics, which could be included in the Independent Expenditure report. Public Finance being one such topic; the idea of a public finance system was raised in response to this report and should be acknowledged. For Electioneering Communications, the idea of date changes was mentioned. It is currently at 60 days, but there were suggestions that it be moved to 120 days. This being a complicated issue, the Task Force would need more time to discuss and decided to hold off. The PAC/Non-profit background information was also discussed. Currently, the entity name is disclosed, but not what exactly the entity is or does. If IECs were required to file B-1s they would need to disclose their status and more background. Illinois PIRG suggested that SuperPACs should be required to identify the entities from which their funding comes from or which make up their entity. The question was asked whether the state could preclude an entity from accepting a contribution if the entity does not know information on the contributor. It would be similar to the business entity registration in Illinois for procurement/state contracts. The Task Force will think about incorporating and doing research on this issue in the future.

Member Johnson asked about the IRS reporting for non-profits, whether it has helped with this issue. Because it is at the discretion of the non-profit to list or not list their donors on their tax forms, it is not necessarily helpful. The one thing that does help is the threshold that forty percent of a non-profit's contributions can be their expenditures otherwise it does trigger much heavier disclosure. That provision does help in this case.

Chair Anderson asked if there were any other topics of discussion. Member Johnson asked Illinois PIRG about shell corporations – whether they were more prevalent at the state or federal level? Anu, from PIRG, said that these corporations were solely at the federal level, but there is concern that they could trickle down to the state level. She would send examples of the numbers and names of shell corporations to the Task Force for the members to look at more in depth.

The Chair asked the State Board to take a look at Public Act 97-0766 to see if they have any questions on interpretation so that the Task Force can look at them at their next meeting. Anderson then asked about the Task Force's next meeting, suggesting January 25th and January 28th. Monday, January 28, 2013, from 3:00 p.m. to 5:00 p.m. was scheduled. The draft report will be made available by Friday, January 25th so the Task Force can review it ahead of that Monday's meeting.

As for next steps, the next reporting deadline of March 1st was mentioned. This being a more broad report, the Task Force would wait to discuss at the next meeting and would be provided with the statutory language for that report. Chair Anderson also said she would have a list of meeting dates for the year so that the members can prepare. The meeting was adjourned at 2:00 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

January 28, 2013, 3:00 PM – 5:00 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees

Members

Chicago:
- Joe Seliga (Temporary Chair)
- Deborah Harrington
- Honorable Barbara Flynn Currie
- Mike Kasper
- William McNary

Springfield:
- N/A

Phone:
- Dawn Clark Netsch

Members Absent
- Lindsay Anderson (Chair)
- Todd Maisch
- Honorable Don Harmon
- Honorable John Noak
- Jo Johnson

Chicago:

Governor's Office
- Jake Weisbecker

House Republicans
- John Slocum

IL Campaign for Political Reform
- David Morrison

Mayer Brown
- Emily Rossi
- Ranjit Hakim

State Board of Elections
- Andy Nauman

Springfield:

State Board of Elections
- Cris Cray
- Tom Newman
- Steve Sandvoss
- Sharon Steward
- Rupert Borgsmiller

With Chairwoman Anderson out sick, Member Seliga began the Task Force meeting with introductions of the members present in Chicago, Springfield, and by phone. He then asked if members had comments on the Independent Expenditure draft report that was provided to members over the weekend. He asked if members were ready to vote on the report, potentially a provisional vote subject to revisions. Member Dawn Clark Netsch suggested there could be approval because the report was mostly factual/background information. She suggested that the Task Force could recommend a tighter definition on what constitutes an independent expenditure, but that that would require an agreement by Task Force members. Member Seliga suggested that the Task Force could consider legislative language changes and report approval at

a later meeting in February and that a letter should be sent to the General Assembly and Governor explaining that the report was still being drafted and would be submitted soon. Sending the letter would allow the Task Force to post the draft report for public comment as well as to incorporate all member comments. Member Barbara Flynn Currie agreed and motioned to submit a letter and schedule a follow-up meeting. The motion was seconded by Member McNary; the Task Force passed the motion unanimously.

Member Seliga explained that the goal was to issue a final report with edits in early February and then to have a meeting soon thereafter to get Task Force approval for submission. The Task Force ultimately decided to schedule the next meeting for Monday, February 11, 2013, at 2:00 p.m. to vote on final approval of the Independent Expenditures report. Member Seliga said he would follow-up with Chair Anderson about the next meeting and the posting. He reminded members to get any comments and edits into him, Lindsay or Sarah as soon as possible. Member Currie then moved to adjourn the meeting and with Member Kasper seconding it, the Task Force adjourned at 3:35 p.m.

Office of the Governor of Illinois

JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

Illinois Campaign Finance Reform Task Force

February 11, 2013, 2:00 PM – 4:00 PM
State Board of Elections Conference Room
JRTC 100 W. Randolph, 14th Floor (Chicago)/2329 South MacArthur Blvd (Springfield)

Meeting Attendees

Members

Chicago:
- Joe Seliga (Temporary Chair)
- Honorable Don Harmon
- Honorable Barbara Flynn Currie
- Todd Maisch

Springfield:
- N/A

Phone:
- Dawn Clark Netsch
- Deborah Harrington
- Lindsay Anderson (Chair)

Members Absent
- Mike Kasper
- William McNary
- Honorable John Noak
- Jo Johnson

Chicago:

Governor's Office
- Sarah Myerscough-Mueller

IL Campaign for Political Reform
- David Morrison
- Calder Burgam

Mayer Brown
- Emily Rossi
- Ranjit Hakim

State Board of Elections
- Andy Nauman

Springfield:

Senate Democrats
- Giovanni Randazzo

State Board of Elections
- Cris Cray
- Tom Newman
- Sharon Steward
- Rupert Borgsmiller

With Chairwoman Anderson absent, Member Seliga began the Task Force meeting with introductions of the members present in Chicago, Springfield, and by phone. Those present in Chicago included Members Flynn Currie, Harmon and Maisch. On the phone were Members Clark Netsch, Harrington and Anderson. The members discussed final edits to the Task Force's report on Independent Expenditures. Member Seliga said all technical edits would be accepted and added to the report.

The Task Force then discussed the process for final approval of the report. Task Force members expressed interest in reviewing the edits to the report prior to final approval. The Task Force also discussed the minutes of the public hearings and Task Force meetings, which needed Task Force approval. Recent changes were made by Member Seliga so he asked that the Task Force be sent the minutes with one version including tracked changes and one with all changes accepted.

The Task Force also discussed the next reporting deadline of March 1, 2013. A public hearing is required of the Task Force in advance of the report. Members discussed the dates of February 25th and February 26th for a hearing in either Springfield or Chicago. Chair Anderson would send an email with the final report that includes information on the public hearing date, time, and location.

Member Currie moved for the adoption of all minutes from the public hearings and the Task Force meetings, pending final review of the revised minutes by the Task Force members by email; Member Harmon seconded. The vote was unanimous. Member Harmon then moved to approve the Independent Expenditures report, pending final review of the revised report by the Task Force members by email; Member Currie seconded that motion. That vote was unanimous as well. The Task Force meeting was then adjourned.

Appendix B

Task Force Public Hearing Minutes

Office of the Governor of Illinois
JRTC, 100 WEST RANDOLPH, SUITE 16-100
CHICAGO, ILLINOIS 60601

Illinois Campaign Finance Reform Task Force Public Hearing
January 10, 2013 2:00 PM
Illinois State Board of Elections Offices
2329 South MacArthur Blvd. Springfield

Public Hearing Minutes

Task Force Members Present:
Lindsay Anderson (Chair)
Joe Seliga
Todd Maisch
Jo Johnson

Testimonies:
David Morrison, Illinois Campaign for Political Reform
Kent Redfield, Professor Emeritus – UIS, Illinois Campaign for Political Reform

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I. Call to Order; Campaign Finance Reform Task Force Overview

Chairwoman Lindsay Anderson began the public hearing at 2:00 p.m. by thanking the public for attending and reminding them to sign-in on the sheets in the back. She then had each Task Force member introduce themselves and explained that the next public hearing would be held at the James R. Thompson Center in Chicago on the 16th floor in Senate Committee Room 503 with the Task Force convening their next meeting immediately following the hearing; the hearing is to begin at 11:00 a.m. next Thursday, January 17, 2013.

Chair Anderson then asked Member Joe Seliga to explain the report that is set to be issued by the end of this month. Pursuant to obligations signed into law last July. Public Act 97-0766 made various changes to the Election Code, specifically those related to independent expenditures and independent expenditure committees. A draft outline was made available on the Board of Elections website ahead of today's hearing and will also be used for next week's hearing and Task Force meeting.

Member Seliga went on to explain that statute directs the Task Force to report upon the regulation of independent expenditure committees (IECs) in Illinois. The draft outline provided includes descriptions of case law related to IECs that led to the Election Code changes proposed and passed last spring. It is important to note that the new provisions were enacted subsequent to last year's primary, but ahead of the general. The report will include research on regulations across the U.S. by state and federally and will survey independent expenditures in the 2012 federal elections. The report does not, but could include considerations on what the General Assembly and the Governor could consider via legislation or regulation. Those could include statutory thresholds; single expenditures to multiple races; the provision that removescontribution limits for all candidates when an independent expenditure is made in excess of $250,000 for statewide or $100,000 for all other offices (Section 9-8.5 (h-5)); disclosure requirements including for non-profit entities; and coordination between candidates and committees.

II. Witness Testimony

A. David Morrison, Illinois Campaign for Political Reform, and Kent Redfield, Professor Emeritus – UIS and Illinois Campaign for Political Reform

David Morrison began by presenting the Illinois Campaign for Political Reform's report on independent expenditure committees (IECs). According to case law, the belief is that these committees would be entirely independent and thus free from corruption so would not need limits. According to the reports that have already been turned into the State Board of Elections, 100-plus independent expenditures came in during the 2012 election cycle, with the majority given between September and November. There were 20 to 30 General Assembly races that saw independent expenditures in 2012. For the GA, there was 6-figure spending in many races.

The question that needs to be asked is: do IECs get an advantage from giving to certain candidates and inversely, do candidates get an advantage from getting contributions from these committees? Generally, the candidates that are aligned with a SuperPAC's message receive contributions. In total, there were $1.7 million in independent expenditures made in 2012 with $1.6 million of that coming from IECs. Only one IEC spent more than the statutory amount necessary to removecontribution limits. The belief is that, for the IEs-only, they may not have understood the disclosure requirements placed on them and should likely have been an in-kind contribution instead. Most of the funding went to opposition advertisements, not in support of one candidate, but in opposition to one. It does not appear as though any of these swayed voters as most of the IEs were given to Republicans who did not gain, but lost seats in the 2012 elections.

ICPR is expecting to see a significant increase in independent expenditures and independent expenditure committees in 2014 with the Governor's race headlining the ticket. The Democratic Governors Association and the Republican Governors Association will not be able to spend nearly as much as they did in 2010. It is important to note that the report by ICPR includes what was up to this point documented on the State Board's website, but that ICPR is waiting for the fourth quarter reports that are due next week (January 15th).

The Illinois Campaign for Political Reform has four recommendations to put forth to the Task Force. They are:

- Require disaggregation of expenditures made in respect to multiple races or candidates.
- Redefine "coordination" and "independence" in the context of the risk of corruption.
- Require disclosure from politically active non-profits.
- Require Federal PACs making expenditures in the days before an election to file disclosure reports on par with State and Local PACs.

Member Seliga: On the Federal PAC issue, is there any area where there may be a gap outside of the independent expenditure realm with respect to the non-disclosure option in Illinois?

- David: Because there were no limits previously in Illinois, there was no reason to have them file in Illinois, but now with limits and supplemental reporting requirements, those assumptions no longer apply. At this point, the public has no idea where money is coming from when it comes in on the Federal level.
- Kent: With the new levels of technology, there is less of a burden to file disclosure reports. It is important to inform citizens and not kowtow to the PACs. There should be two records of such contributions – one from the organization and one from the candidate. This will hold both accountable and help stop under-reporting or embellishing on the part of the candidate.

Member Seliga: How would we go about requiring Federal PAC disclosure in Illinois?

- Kent: Unknown, but will likely see some at next week's reporting deadline. Some 50 to 60 percent of the 2010 Governor's Race came in contributions that are above the limits now in place, most of which were from Federal PACs (DGA, RGA). These limits will require different avenues for contributions in 2014.

Member Seliga: Are there any states that have been enacting these laws in recent years that you would like to highlight?

- David: For redefining coordination, Connecticut is best. They already had laws on the books, but have also passed additional ones. They have put a lot of thought into which activities could raise concerns in coordination such as employees sharing office space. California's laws are also good; a summary can be found in ICPR's report.

Member Maisch: What do you want to see in the redefining of coordination? Can you expound on that?

- David: With the large explosion of independent expenditure committee contributions this year (since Citizens United), there has been major concern. We've seen such things as "if you've maxed out on your personal contribution, give to this PAC." Additionally, a lot of people who worked for a candidate at one time form a PAC or go to work at these PACs and vice versa, many PAC employees end up working in an administration.

Member Maisch: It appears as though coordination needs to be worked on or law needs to be thrown out, is that correct?

- Kent: An example would be Scott Drury's campaign in which a SuperPAC sent out literature that he did not like and they changed it; this could be considered reverse

coordination. There should be as much distance as possible between a candidate and a SuperPAC.

- David: Additionally, when staff in a campaign office is spending the independent expenditures, it is unacceptable. These things should be kept separate.
- Kent: Some contributions were previously in-kinds, but now all of the sudden they are independent expenditures and have no limits. What are the candidate motivations versus the SuperPAC motivations?

Member Maisch: What are the FEC rules on coordination? For example, would the Illinois Chamber be able to do a State and Federal PAC?

- David: Don't know, but Federal rules have not been changed in a while.
- Member Maisch: The rule-making is much stricter.

Member Maisch: On the IE contribution provision where limits are lifted, could this be a strategic decision to either early on or very late, exceed the $250,000 or $100,000 provision so that caps could come off, particularly in the gubernatorial race?

- Kent: History has shown us that limits are a good thing and are necessary due to corruption and the appearance of corruption with interest groups as well as citizens. While limits are less effective post-Citizens United, they are important to keep as we have seen with the Blagojevich experience.
- David: Now that certain candidates can no longer accept money from state contractors, this has helped. The belief is that if we continue to pressure candidates and committees to be honest, they will be.

Member Maisch: The public perception is important – an example being that SEIU can be both in and out at the same time.

- David: The goal of the system is the shine as much light on the problems as possible so that they can be fixed.

Chair Anderson ended the public hearing at 2:55 p.m. and reminded everyone once again about the next public hearing and subsequent Task Force meeting Thursday, January 17, 2013, beginning at 11:00 a.m.

Office of the Governor of Illinois
JRTC, 100 WEST RANDOLPH, SUITE 16-100
CHICAGO, ILLINOIS 60601

Illinois Campaign Finance Reform Task Force Public Hearing

January 17, 2013 11:00 AM
James R. Thompson Center
100 W. Randolph Chicago, IL
Room 16-503 (16th Floor)

Public Hearing Minutes

Task Force Members Present:
Lindsay Anderson (Chair)
Joe Seliga
Deborah Harrington
Majority Leader Barbara Flynn Currie
Jo Johnson
William McNary
Senate President Pro Tempore Don Harmon

Testimonies:
David Morrison, Illinois Campaign for Political Reform
Gerardo Cardenas, AARP
Paula Lawson, League of Women Voters
Maryam Judar, Citizen Advocacy Center
Anu Dathan, Illinois PIRG
Kathy Ryg, CHANGE Illinois!

I. Welcome; Introduction

Chairwoman Lindsay Anderson welcomed the Task Force members, staff, and public to the second public hearing on the Task Force's next report regarding Independent Expenditures. She then asked Member Joe Seliga for an explanation of the report. Member Seliga discussed the draft outline that was provided to the public ahead of last week's first public hearing in Springfield. Pursuant to Public Act 97-0766, the Campaign Finance Reform Task Force is required to produce a report on Independent Expenditures ("IEs"). The draft outline lists what the report should consider and make recommendations including policy-related issues. It includes court cases that have affected IEs in the recent past including Personal PAC, Citizens United, and Speech Now.

The draft goes on to lay out the current provisions found in statute, most of which were enacted with PA 97-0766. It includes research on what was spent via IEs in the most recent 2012 general election - $1.8 million. There was only one race that was found to exceed the statutory threshold limit such that the contribution limits were thrown out (according to their research prior to the quarterly reports being due – January 15, 2013). It discusses the areas of potential action which are: the contribution limit lift provision, the disclosure requirements for Independent Expenditure Committees ("IECs" or "SuperPACs") as well as the 501(c)(4)s, and the coordination between these SuperPACs and campaign committees.

II. Testimony

a. David Morrison, Illinois Campaign for Political Reform

David began by explaining the findings he presented last week. They were preliminary findings as the quarterly reports (full) were due this past Tuesday, January 15, 2013. The old numbers were $1.7M in Independent Expenditures with $1.6M aimed at the General Assembly and $1.5M being spent by SuperPACs. The updated numbers show $2.0M in Independent Expenditures with $1.7M from SuperPACs. Of this money, $800,000 can be called "dark money" as it came from a PAC from which the funding source is unknown. The largest spenders were the JOBS PAC which reported $412,932, but actually spent $375,932; the Republican State Leadership Committee IE PAC which reported $334,392, but actually spent $220,000 more so they ended up at $554,392; and the Illinois Immigrant Action PAC which reported spending $22,000, but actually spent $32,000 most of which was small amounts of money.

Mr. Morrison went on to say that the Election Code does not do all it should to protect Illinois from corruption. There should be a requirement of desegregation between SuperPACs and candidate committees. The definition of coordination should be made clearer. Politically active non-profits should be required to disclose. And, Federal PACs should have to file the same disclosure reports at State PACs.

Comments/Questions

Member Deborah Harrington: Thank you to ICPR for being such a valuable resource to the Task Force.

Member Joe Seliga: Thank you, David and ICPR, for all of your help, for your testimony last week and your report research from last week and this week. It has all been extremely helpful to the Task Force. For the Federal PACs and non-profits, can you explain their disclosures?

- David Morrison: The FEC reports that the Federal PACs are required to file are on a quarterly basis only so they do not have to do so 4 times per year. For example, the Liberty Principles State PAC did not disclose where they came from. We are unsure where this PAC came from, but are assuming it is the same one that filed federally, but with sloppy disclosure reports.

Member Seliga: For non-profit disclosures, do you think going back to the old provision (7.5) would be the best idea? Would that be good enough?

- David: It would be a good starting point, but may not fix everything. California has a law that chases the funding going to non-profits to figure out where it is coming from.

- Member Seliga: You mentioned last week an opt-out provision that would allow people to request that their money *not* be spent for campaign purposes, correct?
- David: Yes, that could be a possibility.

Member William McNary: Can you explain why your 1st and 2nd recommendations are important?

- David: For the desegregation piece, it is unclear where these committees are spending their funds – for example, one large lump sum is used for 10 different races. Could such a large amount hit the threshold provision and thus knock limits off for those 10 different races? It is very unclear. For the coordination piece, these SuperPACs can easily coordinate their expenditures with the candidate committee. Additionally, it happens frequently that people leave a SuperPAC to help on a candidate's campaign or in their new office or vice versa thus tainting the staff.

b. Gerardo Cardenas, AARP

Nearly 80% of AARP members vote in elections. Without urgently needed reforms, the public's voice in Government is/will continue to be diminished. Voter participation is key to civic engagement. Campaign finance is always a topic of concern for the members and the Personal PAC decision worries them. There were 29 General Assembly races that accepted IEs from SuperPACs in 2012. We can't tell which groups are funding which campaigns. They recognize that court decisions have weakened people's engagement, but also recent statutory changes have improved donor information disclosure, but more can be done. The general public wants to make sure their voice counts more than special interests. Please restore the public's confidence in candidates and elected officials.

Comments/Questions

Member McNary: What is the number one thing we can do to strengthen the law? Do you have specific recommendations?

- Gerardo: We agree with CHANGE Illinois and ICPR that stopping unlimited contributions, having more transparency in disclosure, and keeping independent contributions independent are extremely important and must be done.

Member McNary: Does your organization have a position on the public financing of elections?

- Gerardo: I will have to get back to you on that question.

c. Paula Lawson, League of Women Voters

The goal of campaign finance reform is to maximize citizen participation via transparency with full and timely disclosure of contributions and expenditures. With that, greater disclosure of Independent Expenditures is a must. The definitions of coordination should be narrowed, politically active non-profits and Federal PACs must be required to disclose in the same ways as State PACs. The public has a right to know whether it is a corporation, union, trade association, or non-profit making any one contribution. The 10th Congressional District race raised $5.8M by the campaigns and $2.8M in Independent Expenditures. There was an increase in independent spending in 2012 and that is only going to increase with the gubernatorial race in 2014.

Questions/Comments
Member McNary: Does the League have a position on public finance?

- Paula: The League supports all disclosure and transparency and would certainly support a method of public finance. It could give a new and different group of people the opportunity to run for office and serve the public.

d. Maryam Judar, Citizen Advocacy Center

The mission of Citizen Advocacy Center is the build democracy by motivating citizens to increase their public participation towards self-governance. We want optimal participation in the legislative process. A health democracy requires transparency in government which requires an informed and participatory citizenry. Disclosure must be increased so that money can be tracked to its original source; the means for uncovering this information cannot be that difficult. There should be no contribution limits lifted for any provision. The term Independent Expenditure is a misnomer as it can create obligations on the part of public servants. In order to have cleaner elections, we must be able to keep a robust candidate pool and not let individuals get deterred from running for elected office.

Questions/Comments
Member McNary: How do people find the Citizen Advocacy Center?

- Maryam: If someone has a problem with a government agency or organization, they often come to them. For everything from questions about procurement to campaign finance (at the local level) to storm water management to community involvement in governmental affairs. We are just here to help level the playing field a bit.

e. Anu Dathan, Illinois PIRG

Illinois PIRG would like to see a reduced role of big money in elections. We have issued a new report *today* that studies campaign finance in 2012. The report says that 2012 broke all previous records. Nearly two-thirds of spending was from outside parties. Presidential candidates took in only $3.7M in small donor contributions with $314M total brought in. These numbers lead to increased influence in policy-making by the wealthy and powerful. "Dark money," which is that from unknown sources was huge. The single largest IEs came from shell organizations with no previous background in campaigns. The report includes six policies PIRG is hoping will help the system:

1. Amend the U.S. Constitution to clarify that the people have the right to democratically enact content-neutral limitations on campaign contributions and spending by individuals and corporations in order to promote political equality. The General Assembly should send a resolution to Congress. Eleven other states have already done so.
2. A public finance system of matching small contributions with public resources should be developed to encourage donor participation.
3. Provide for voucher or tax check-off systems for Illinois.
4. Require for-profits to obtain approval from shareholders before spending their donations.
5. Expand the electioneering communications windows.
6. Require more/better disclosure of SuperPACs.

Questions/Comments
Member McNary: Can you expand on the electioneering communications window?
- Anu: Expand the window to 120 days to allow more time for disclosure.

Member McNary: How will changing the SuperPACs tax statuses be helpful?
- Anu: It would be a better way to see the source of this money – we could see the status of the donors/stakeholders; it is a better way of figuring out where the money is coming from.

Member McNary: Are you recommending one of these at the exclusion of another?
- Anu: These are just six general guidelines. We are not recommending one over another

Member Seliga: Thank you for coming here today and making your recommendations known. Does PIRG have any position on ICPR's recommendations?
- Anu: We believe disclosure is essential for all committees, candidates, and organizations.

Member Seliga: For your public finance recommendations, would you prefer a tax check-off system to a public finance matching donor system? How could a voucher/credit program be implemented? Would they go to a party? Specific candidate?
- Anu: Will get back to you on the specifics of our proposal on these.

Member Seliga: To your point about tax status for political committees – it may make it easier to identify what the entity is and where it comes from.
- Anu: Yes, that is correct.

f. Kathy Ryg, CHANGE Illinois!

CHANGE Illinois is recommending five things:
1. Insist independent expenditures are independent by enacting legislation to make sure coordination is not and will not occur. Prohibit shared office space, shared money, and shared staff/volunteers, etc.
2. SuperPACs must be required to disclose all contributions to them. Voters deserve to know where the money is coming from.
3. Non-profits must also be required to disclose. They cannot serve as a pass-through.
4. The provision that knocks out limits must be stricken.
5. Unlimited, independent expenditure groups *must* be kept independent. Disclosure is key for them.

Questions/Comments
Member Seliga: This information is very helpful and consistent with areas we will be discussing. For the non-profits making large contributions, could you suggest a threshold for these organizations – should it be up to $10,000 or something along those lines?
- Kathy: The limits originally proposed would be best ($10,000), but due to court cases it may be necessary to go back and talk to experts about the numbers.

Member McNary: How do you think your recommendations would prevent the Ryan/Blagojevich scandals?
- Kathy: The behavior of elected officials can be greatly changed by disclosure. This would lessen the opportunity for these officials to take advantage of their situation. By

requiring as much transparency and disclosure as possible, we can stop corruption in its tracks.

Member McNary: Does CHANGE support clean elections/public finance?

- Kathy: We support the exploration of public finance; it is a part of our core values.
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III. Closing remarks

Chair Anderson thanked the public for showing up and showing us how we can achieve the goals of transparency. The Chair also thanked Mayer Brown for their work on the draft agenda. She reminded those present that the next reporting deadline, after Independent Expenditures, would be broader in scope and due March 1, 2013.

Appendix C

Public Hearing Testimony

January 10, 2013

Big Money, Big Risks
A Summary of SuperPAC and Independent Expenditures in Illinois' 2012 General Election

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A report by the Illinois Campaign for Political Reform,
with assistance from the Sunshine Project

I. Introduction

Recent changes to Illinois' election code have affected how certain expenditures are reported. Prior to the 2009 changes[103], all spending in connection with a candidate was to be reported to the candidate as an in-kind contribution. The 2009 law, effective in 2011, directed that spending that is not coordinated with a candidate should instead be reported as an independent expenditure. Spending which is coordinated with a candidate is reported as a contribution, subject to limits. Several groups engaged in independent expenditures in the 2011 municipal elections and the 2012 General Primary.

In May of this year, the General Assembly again amended the Election Code to provide for committees that are dedicated to Independent Expenditures, and so are not subject to contribution limits. This bill was signed into law in July and was in effect for the 2012 General Election.

This summary looks at committees that reported Independent Expenditures in relation to legislative races in the 2012 General Election, whether they were made by Independent Expenditure Committees or committees subject to contribution limits. The vast majority of Independent Expenditures reported in the fall of 2012 were with regard to legislative races, but there were a small number of reports filed with regard to other (mostly county) races, which are not part of this summary.

Independent expenditures are a category of campaign activity defined in the Illinois Election Code[104]. The term was codified in 2009 at the same time that contribution limits became law, and was used to distinguish certain electoral spending from activity that was coordinated with a candidate. Spending that was actively coordinated with a candidate was to be treated as akin to in-kind contributions: it was to be reported to a candidate and then by the candidate to the State Board of Elections, and it would be subject to contribution limits. Activity that was not reported to the candidate and subject to contribution limits was labeled "independent," in the sense that it could not be characterized as a contribution to the candidate. In this area, Illinois law drew on federal election laws, which had instituted similar definitions and practices years earlier.

In 2010, the US Supreme Court issued its *Citizens United v. FEC*[105] ruling, which greatly expanded the meaning of the term "independent." The high court ruled that a small non-profit that was airing an ad about its pay-per-view movie about a federal candidate was not only exempt from disclosure requirements and from contribution limits, but was also unlikely to raise concerns about corrupting a candidate through its activities. Later that year, the DC Court of Appeals issued a ruling in *SpeechNow v. FEC*[106], which further asserted that activities that could be called "independent" ran no risk of corruption, such that contribution limits could not be applied to fundraising by groups devoted to "independent" activities. Through these two decisions, SuperPACs were ushered into federal elections. A federal district court ruling brought SuperPACs to Illinois' state and local elections in March, 2012, and the General Assembly codified changes in May.

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[103] P.A. 96-832
[104] 10 ILCS 5/9-8.6
[105] 558 U.S. 310 (2010)
[106] 599 F.3d 691 (2010)

All told, political committees reported a total of $1.7 million in Independent Expenditures in the 2012 General Election period, including $1.6 million in relation to legislative candidates. While there were roughly equal numbers of Independent Expenditure Committees and other committees that reported making Independent Expenditures, the bulk of spending came from the former – those committees devoted to spending that is not coordinated with candidates. Independent Expenditure Committees reported $1.5 million compared with $219,000 in such spending by other committees.

Most independent expenditures were negative, opposing candidates rather than supporting them. It also appears that, in this election cycle at least, most independent expenditures either opposed Democratic candidates or supported Republican candidates.

Committees Reporting the Most Independent Expenditures*

24592	The JOBS PAC	$412,932
24296	Personal PAC Independent Committee	$334,392
24607	National Association of REALTORS® Fund	$232,500
24614	Liberty Principles PAC	$215,168
24598	GOPAC Illinois Legislative Fund	$186,524
22783	For the Good of Illinois PAC	$78,430
24589	Republican State Leadership Committee- IE Com	$74,799
22721	Citizens for a Better Quincy	$60,000
24671	Illinois Immigrant Action PAC	$22,378
21844	Adam for IL Committee (Adam Andrzejewski)	$20,000

** Excludes independent expenditures reported by Democratic Party of Illinois of $27,486 and Democratic Majority of $28,500 in support of Democratic candidate Scott Drury in House District 58. These expenditures would usually be reported as in-kind contributions, but there appears to have been a conflict between the House Democrats and their candidate over the content of the ads.*

By way of context, note that candidates reported raising a total $29.47 million in targeted legislative races in the General Election period (7/1/2012 through 11/6/2012, as of December 31, 2012). A total of $13.55 million of the $29.47 million came from legislative leaders. The independent expenditures of $1.62 million in targeted legislative races is equal to 5.5% of total raised by candidates from all sources in those races.

Candidates and voters experienced these expenditures in a variety of contexts. Fifteen House races and 14 Senate races saw at least some independent, uncoordinated spending. This involvement ranges from a single $636 expenditure by one group in an uncontested Chicago Senate race to $252,141 total spent by six different groups in a hotly contested Quad Cities Senate race.

The 2012 changes to the Election Code that created Independent Expenditure Committees also provided that contribution limits would be removed from all candidate committees in a race once

any committee spent more than $100,000 in Independent Expenditures in that race. (A higher threshold – $250,000 – applies in statewide office races.) The $100,000 independent expenditure trigger from single source was reached in one General Election race: Senate District 31, where Personal PAC reported spending $159,600 against Republican Joe Neal. No direct contributions have been made by any individual, entity or group to either candidate in the 31 Senate race during the General Election period to date that exceed the statutory limits.

II. Groups Making Uncoordinated Expenditures

State law outlines three entities that might make independent expenditures: natural persons who do not coordinate with any other person or entity; political committees that may coordinate with candidates or other committees but choose to make some expenditures without consulting with others; and Independent Expenditure Committees, which never coordinate with others and so are exempt from contribution limits. The 2012 General Election campaign saw instances of the last two of these. No flesh-and-blood individuals reported making independent expenditures.

Most entities making Independent Expenditures were based in Illinois, but several had national affiliates. Entities with national affiliates present a particular challenge to Illinois' voters, because it becomes difficult to tell who is funding their work in Illinois. Whether their funds are washed through a non-profit organization, which may not reveal donors at all, or to the extent required of PACs by the Illinois Election Code, or whether they are organized as a federal PAC, which do not file disclosure reports on the same schedule prior to elections, national entities engaged in Independent Expenditures present a threat to Illinois' disclosure system.

SuperPACs ("Independent Expenditure Committees")

GOPAC Illinois Legislative Fund reported raising $194,500. All of that money came from GOPAC, a national non-profit organization organized under Section 527 of the federal Internal Revenue Code. The national GOPAC files annual reports with the IRS; showing top contributions in 2012 including $200,000 from Contran Corp, $147,500 from Reynolds American (tobacco); $100,000 from the American Beverage Assn and Devon Energy, and $75,000 from Cancer Treatment Centers of America. The Illinois PAC reported spending $178,144.18 in five legislative races, two of which returned the desired result.

GOPAC Illinois Legislative Fund			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-052	$20,000.00	Supported Dave McSweeney	Dave McSweeney won with 59.2% of the vote.
H-055	$17,004.57	Supported Susan Sweeney	Marty Moylan won with 53.2% of the vote.
	$16,760.52	Opposed Marty Moylan	
H-079	$20,000.00	Supported Kate Cloonen	Kate Cloonen won with 50.2% of the vote.
	$20,000.00	Opposed Glenn Nixon	
S-036	$27,927.97	Supported Bill Albracht	Mike Jacobs won with 54.7% of the vote
	$17,117.00	Opposed Mike Jacobs	
S-047	$20,781.46	Opposed John Sullivan	John Sullivan won with 56.3% of the vote
	$26,932.92	Supported Randy Freese	

Illinois Immigrant Action PAC was formed about one week before the election. It reported raising $31,935 in a matter of days. Top contributors included the Campaign for Community Change at $15,000 and SEIU Illinois Council at $7,500. Illinois Immigrant Action PAC reported spending $22,378.25 on five Races. All but one race resulted in the outcome that the PAC

intended. Except for the $15,000 contribution from the Campaign for Community Change, all of the receipts and all of the expenditures reported by the PAC could have been made under current contribution limits, coordinated with the candidates.

Illinois Immigrant Action PAC			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-052	$9,811.59	Supported Dee Beaubien	Dave McSweeney won with 59.2% of the vote.
H-057	$5,269.92	Supported Elaine Nekritz.	Elaine Nekritz won with 55.5% of the vote.
H-062	$262.20	Supported Sam Yingling	Sam Yingling won with 55.3% of the vote.
S-023	$512.60	Supported Tom Cullerton	Tom Cullerton won with 51.2% of the vote.
S-028	$6,521.94	Supported Dan Kotowski	Dan Kotowski won with 57.3% of the vote

Liberty Principles PAC was formed under state law in October 2012 and reported $273,000 in contributions, all from an organization also called Liberty Principles. Liberty Principles PAC reported spending $215,168.18 on seven Races, none of which resulted in the election outcome that the PAC intended. Some of its spending was reported as supporting or opposing multiple candidates in disparate races; these appear to be fees paid to a media buyer or for mailings that identified multiple candidates. Because we cannot break out how much of the fee was for which races (whether, for instance, it was based on the number or cost of ads bought), the total shared amount is listed in each race below, but shared expenses are factored only once in the total for the PAC.

In some respects, it appears that the Liberty Principles that gave to the Illinois PAC was itself a SuperPAC organized through the Federal Elections Commission. Former Republican gubernatorial candidate Dan Proft filed the Statement of Organization for Liberty Principles with the State Board of Elections and also filed a statement of organization with the Federal Elections Commission. Both the federal and state filings claim the same officers and business address, and both keep their funds at the same bank. But in other respects, they appear to be different. The federal PAC filed organization papers on February 27, 2012, while the state PAC claimed an October 9 creation date, and their disclosure reports do not line up. The federal PAC acknowledged $179,131.35 in expenditures, nearly all of them categorized as "nonfederal disbursements," while the state PAC claims $215,168.18 in expenditures over the same time period. While the expenditures are similar, not one them matches exactly, sometimes because the federal filing claimed a different expenditure date or dollar amount than the state filing, sometimes because there is no comparable expenditure on both reports. The federal filings list no transfers to the State PAC, though the state filings claim receipts from another entity with the name and address of the federal PAC.

Most of the receipts reported by the federal Liberty Principles PAC came from two donors: Richard Uihlein at $125,000 (of Uline Industries, his giving includes $50,000 received on March

20 and disclosed on April 12, $50,000 received on August 24 and disclosed on October 15, and $25,000 received on October 29 and disclosed on December 6) and real estate developer John Buck at $100,000 (received on June 29 and disclosed on July 12). All told, the federal PAC received $65,500 prior to Election Day that was not reported to the public until one month afterwards.

Liberty Principles PAC				
Race	Amount Reported Spent	Candidate Supported or Opposed	Amount Likely Spent	Outcome of Election
H-046	$44,209.27	Opposed Deborah Conroy, and others	$23,042.60 opposed to Deborah Conroy	Deborah O'Keefe Conroy won with 57.7% of the vote.
H-055	$36,927.25	Opposed Marty Moylan, and others	$17,298.81 opposed to Marty Moylan	Marty Moylan won with 53.2% of the vote.
H-057	$71,387.15	Opposed Elaine Nekritz, and others	$33,899.94 opposed to Elaine Nekritz	Elaine Nekritz won with 55.5% of the vote.
H-072	$78,537.72	Opposed Patrick Verschoore, and others	$31,768.86 opposed to Patrick Verschoore	Patrick Verschoore won with 64.3% of the vote.
H-098	$47,357.02	Opposed Natalie Manley, and others	$26,190.35 opposed to Natalie Manley	Natalie Manley won with 61.5% of the vote.
S-028	$52,230.96	Opposed Dan Kotowski, and others	$17,298.81 opposed to Dan Kotowski	Dan Kotowski won with 57.3% of the vote
S-029	$85,733.21	Opposed to Julie Morrison and others	$33,899.94 opposed to Julie Morrison	Julie Morrison won with 54.4% of the vote
S-036	$78,537.72	Opposed Mike Jacobs	$31,768.86 opposed to Mike Jacobs	Mike Jacobs won with 54.7% of the vote

National Association of Realtors reported $233,000 in total contributions. All of its receipts were reported as coming from "NAR Members," but it is not clear if this money was raised by NAR as a conduit for members' intentional giving to the PAC, if the funds derived from dues or other funds paid by some or all members but controlled by the association, or if the funds came from a subset of members giving intentionally to the association for broadly political uses. They reported spending $232,500.00 on 5 Races; two of which showed the intended result.

National Association of Realtors			
Race	Amount	Candidate Supported or	Outcome of Election

	Spent	Opposed	
H-062	$35,699.06	Supported Sam Yingling	Sam Yingling won with 55.3% of the vote.
H-068	$35,199.20	Supported Carl Wasco	John Cabello won with 53.3% of the vote.
H-077	$86,200.00	Supported Angelo Saviano	Kathleen Willis won with 52.6% of the vote.
S-034	$27,927.97	Supported Frank Gambino	Steve Stadelman won with 62.8% of the vote
S-056	$40,202.00	Supported Bill Haine	Bill Haine won with 58.8% of the vote

Personal PAC won a federal lawsuit demanding the right to raise money without limits for activities that would not be coordinated with candidates. Personal PAC Independent Expenditure Committee was the first Independent Expenditure Committee to form. Personal PAC also has a separate and distinct Political Action Committee which is subject to contribution limits and which had $935,371 cash on hand as of July 1, and raised another $478,670 during the fall campaign season. The Personal PAC Independent Expenditure Committee reported raising $738,788.26. Top donors include Cari & Michael Sacks at $290,000 and Fred Eychaner at $215,000. In the fall campaign season, the fund reported spending $334,392.00 on five legislative races; four of which resulted in Personal PAC's intended outcome.

Personal PAC Independent Expenditure Committee			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-068	$24,276.00	Opposed John Cabello	John Cabello won with 53.3% of the vote.
H-071	$24,276.00	Opposed Richard Morthland	Mike Smiddy won with 51.7% of the vote.
S-023	$51,240.00	Opposed Carole Pankau	Tom Cullerton won with 51.2% of the vote
S-031	$159,600	Opposed Joe Neal	Melinda Bush won with 51.3% of the vote.
S-036	$75,000	Opposed Bill Albracht	Mike Jacobs won with 54.7% of the vote.

Republican State Leadership Committee reported raising $357,186.17. All of the funds came from an entity also called Republican State Leadership Committee, apparently a national organization created under Section 527 of the Internal Revenue Code and which files annual disclosure reports with the IRS. The national RSLC reported top contributions in 2012 including $2.4 million from Blue Cross/Blue Shield, $1.4 million from the US Chamber of Commerce, $705,323 from Reynolds American (tobacco), $600,000 from Devon Energy and $489,620 from Altria Group (the former Philip Morris Tobacco company). In its D-1 Statement of Organization, the state PAC said it was formed for the purpose of engaging in two House races, but reported expenditures in only one. It spent $63,299.31 but their one race did not return their intended result.

Republican State Leadership Committee			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-111	$4,410.57	Supported Kathy Smith	Dan Beiser won with 58.5% of the vote
	$70,388.74	Opposed Dan Beiser	

The JOBS PAC reported total receipts of $373,500. Top donors include the Illinois Manufacturers Association at $200,000 and MacLean-Fogg at $80,000. JOBS PAC reported spending $272,935.75 on nine races; four of which returned their intended outcome. The PAC's spending supported Republicans or opposed Democrats in six races, and supported Democrats in three races. One race in support of a Republican won; all races supporting a Democrat won, and no races opposing Democrats won.

The JOBS PAC			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-052	$26,000.00	Supported Dave McSweeney	Dave McSweeney won with 59.2% of the vote
H-057	$16,000.00	Supported Elaine Nekritz	Elaine Nekritz won with 55.5% of the vote
S-028	$90,989.75	Opposed Dan Kotowski	Dan Kotowski won with 57.3% of the vote
S-029	$81,980.75	Supported Arie Friedman	Julie Morrison won with 54.4% of the vote
S-036	$61,975.00	Supported Mike Jacobs	Mike Jacobs won with 54.7% of the vote.
S-046	$15,000.00	Supported Pat Sullivan	Dave Koehler won with 54.2% of the vote
S-048	$94,986.20	Supported Mike McElroy	Andy Manar won with 55.3% of the vote
S-049	$15,000.00	Supported Garrett Peck	Jennifer Bertino-Tarrant won with 52.7% of the vote
S-056	$11,000.00	Supported Bill Haine	Bill Haine won with 58.8% of the vote

Other Political Committees that Reported Independent Expenditures

Throughout the 2012 General Election season, Adam for Illinois shared leadership and funders with For the Good of Illinois. Adam for Illinois was formed in support of Adam Andrzejewski's 2010 Republican primary race for the gubernatorial nomination, which he lost. Andrzejewski also chaired For the Good of Illinois until resigning on November 26, 2012. Adam for Illinois reported spending $20,000 in one race, which did not return the intended outcome.

Adam for Illinois Committee (Adam Andrzejewski)			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-047	$20,000.00	Opposed John Sullivan	John Sullivan won with 56.3% of the vote

Brady PAC of Illinois reported spending $636.37 on one race which, being uncontested, returned the desired outcome.

Brady PAC of Illinois Spent $636.37 on 1 Race; Got Intended Outcome 1 time			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-005	$636.37	Supported Patricia Van Pelt Watkins	Patricia Van Pelt Watkins won with 100.0% of the vote

Citizens for a Better Quincy formed in 2010 as a political action committee. The PAC reported $60,000 in receipts during October of 2012. Top contributors include Otto Engineering and Bruce Rauner. Citizens for a Better Quincy spent $60,000 in independent expenditures, all in the 47th Senate District, but did not get the desired outcome.

Citizens for a Better Quincy Spent $60,000.00 on 1 Race; Got Intended Outcome 0 times			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-047	$60,000.00	Opposed John Sullivan	John Sullivan won with 56.3% of the vote

Democratic Majority is the House Democratic caucus PAC. Democratic candidates have reported just over $1 million in direct contributions from the PAC in the General Election period. The PAC itself reported $28,500 in independent expenditures, all of it in the 58th House District, where they achieved their desired outcome.

Democratic Majority			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-058	$28,500.00	Supported Scott Drury	Scott Drury won with 55.8% of the vote

The Democratic Party of Illinois is an established state party. Democratic candidates reported over $5.9 million in direct contributions in the 2012 General Election period. The PAC itself reported $27,485.85 in independent expenditures, all of it in the 58th House District, where it received its desired outcome.

Democratic Party of Illinois: Spent $27,485.85 on 1 Race; Got Intended Outcome 1 time			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-058	$27,485.85	Supported Scott Drury	Scott Drury won with 55.8% of the vote

The Illinois Association of Mortgage Brokers is an established political action committee. Candidates reported no direct contributions from it in the General Election period. The PAC itself reported $415.27 in independent expenditures, all of it in the 40th Senate District, which did not return their desired outcome.

Il Assn of Mortgage Brokers: Spent $415.27 on 1 Race; Got Intended Outcome 0 time			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-040	$415.27	Supported Tuck Marshall	Toi Hutchinson won with 59.6% of the vote

For the Good of Illinois reported raising $205,000 since July 1, 2012, when it had $794.14 cash on hand. It reported spending $78,430.00 on four Races. Not one of these four races ended the way it intended.

For the Good of Illinois			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-036	$20,000.00	Opposed Mike Jacobs	Mike Jacobs won with 54.7% of the vote
S-047	$53,045.00	Opposed John Sullivan	John Sullivan won with 56.3% of the vote
S-049	$2,385.00	Supported Garrett Peck	Jennifer Bertino-Tarrant won with 52.7% of the vote
S-052	$3,000	Opposed Mike Frerichs	Mike Frerichs won with 64.9% of the vote

Naperville Area Chamber of Commerce is an established political action committee. Candidates reported no direct contributions from it in the fall campaign. The PAC itself reported $3,769.40 in independent expenditures, divided evenly between two house districts, only one of which did returned its desired outcome.

Naperville Area Chamber of Commerce			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-042	$1,884.47	Supported Jeanne Ives (and others)	Jeanne Ives won with 61.7% of the vote
H-084	$1,884.47	Supported Pat Fee (and others)	Stephanie Kifowit won with 61.6% of the vote

The Pro-Life Victory Fund is an established political action committee. Candidates reported $2,500 in direct contributions from the Pro-Life Victory Fund in the fall campaign. The PAC itself reported $1,938.58 in independent expenditures, mostly in the 36th Senate District, which did not returned their desired outcome. The 56th Senate District, which saw less than a fifth of the Pro-Life Victory Fund's independent expenditures, returned its desired outcome.

Pro-Life Victory Fund: Spent $1,938.58 on 2 Races; Got Intended Outcome 1 time			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
S-036	$1,583.83	Supported Bill Albracht	Mike Jacobs won with 54.7% of the vote
S-056	$354.75	Supported Bill Haine	Bill Haine won with 58.8% of the vote

The State Council of Sheet Metal Workers is an established political action committee. Candidates reported $5,600 in direct contributions from the PAC. The PAC reported $1,000.00 in independent expenditures, all in the 68th House District, which did not return its desired outcome.

State Council of Illinois Sheet Metal Workers: Spent $1,000.00 on 1 Race; Got Intended Outcome 0 time			
Race	Amount Spent	Candidate Supported or Opposed	Outcome of Election
H-068	$1,000.00	Supported Carl Wasco	John Cabello won with 53.3% of the vote

III. Candidates' and Voters' Experience of Uncoordinated Spending

Candidates and voters in 29 legislative contests in 2012, including 15 House races and 14 Senate races, experienced uncoordinated spending, including mailings, phone calls, and broadcast advertisements. Most races and most parts of the state did not see this kind of election-related activity. As a share of candidate fundraising, uncoordinated spending ranged from less than 1% up to nearly 13%.

State law removes contribution limits on candidates in races where a single organization spends more than $100,000 uncoordinated with candidates. Five races saw total uncoordinated spending exceed $100,000. In all but one of these, though, multiple groups made uncoordinated expenditures, so contribution limits were not removed. Only one race saw a single group pass the threshold. But in that race, neither candidate raised money in excess of the limits.

Effectiveness of Independent Expenditures

Independent expenditures were slightly more likely to be in opposition to a candidate (40 times) than in support of a candidate (37 times), though there was much more money behind opposing messages ($941,642.61) than behind supporting messages ($760,609.70). More often than not, these expenditures failed to deliver the desired result (58 times) than did the election returns match the intent of the ads (19 times).

The Role of Independent Expenditures in Particular Races

In no district did uncoordinated spending top 13% of total fundraising reported by both candidates, but for some candidates, uncoordinated spending equaled a sizeable share of what their own campaigns reported raising. At the top of the list is Republican Randy Freese, who raised $426,000 (largely from political parties and legislative caucuses, which are not limited in how much they can give to candidates in general elections) in his challenge to incumbent 47th District Sen. John Sullivan. Uncoordinated groups spent another $180,800 to support his candidacy or oppose Sen. Sullivan. That uncoordinated spending was like a 42% shot in the arm for his campaign. Next is Democrat Carl Wasco, who reported raising $162,000 for his race against Republican John Cabello in the open 68th House District. Uncoordinated spending supporting his candidacy or opposing Cabello totaled $60,500, or 37% of his fundraising. Despite this substantial outside assistance, neither Freese nor Wasco won election.

36th Senate Race

Voters in the Quad Cities saw more uncoordinated spending than any other area in the state, between the 36th Senate District and the 72nd House District (which makes up half of the 36th Senate District) both attracted significant independent expenditures. The 36th Senate contest between incumbent Mike Jacobs and challenger Bill Albracht drew $252,141, the most uncoordinated spending of any race. Reported uncoordinated spending in the race includes $75,000 opposing Bill Albracht, all by Personal PAC; $115,654 opposing Jacobs, spent by For the Good of Illinois, Liberty Principles, and GOPAC; $29,510 supporting Albracht, spent by

GOPAC and the Pro-Life Victory Fund; and $61,975 supporting Jacobs, spent by The JOBS PAC.

Several groups reported making single expenditures that affected multiple races, making it difficult to determine how much was actually spent in each race. Of the $284,000 spent in the 36th Senate race, $147,000 opposed Jacobs or supported Albracht (there were only two candidates on the ballot), while $137,000 opposed Albracht or supported Jacobs.

Complicating the math is the way Liberty Principles reported expenditures. Liberty Principles reported $58,537 against Jacobs and Rep. Pat Verschoore, whose House district constitutes half of the 36th Senate seat. Liberty Principles also reported $20,000 against Jacobs and seven other candidates, some of whom were nowhere near the Quad Cities: Senate candidates Julie Morrison and Dan Kotowski; and House Candidates Elaine Nekritz, Marty Moylan, Natalie Manley, and Deborah Conroy, all of whom were in Cook County, along with State Rep. Pat Verschoore. How that $78,537 was allocated among the contests is impossible to determine precisely from the disclosure record, though it seems reasonable to assume that the spending be allocated equally among all of the named candidates. In that case total spending aligned with Albracht (that is, in support of Albracht or opposed to Jacobs) would be $98,398.

Candidates in the 36th Senate District reported raising significantly more resources in direct contributions than the uncoordinated expenditures reported for the race -- Jacobs reported raising $1,144,400 while Albracht showed $655,900. The uncoordinated spending intended to advantage Albracht's campaign using the greater number of $137,000 provided an uncoordinated supplement equal to 22% of the amount he reported raising. Allocating expenditures directed at multiple candidates to each candidate would reduce the size of the supplement to 15%. The uncoordinated spending intended to advantage Jacobs' campaign provided an uncoordinated supplement equal to 12% of the amount he reported raising. While the amount of uncoordinated spending was not insignificant, the great majority of advertisements that voters experienced came from the candidates themselves.

Uncoordinated spending here was roughly equal on both sides. Voters returned Mike Jacobs to office with 54% of the vote.

47th Senate Race

The Quincy-based 47th Senate District saw $180,759 in independent spending. All of that spending was intended to advantage the campaign of Randy Freese, the Republican challenger. A total of $153,872 was spent in opposition to Democratic incmbent Sen. John Sullivan while the balance, $26,932, was spent in support of Freese. Candidates in the race reported a combined $1,406,500 in resources, including $980,500 by Sullivan and $426,000 by Freese.

Adam for Illinois, which is a candidate political committee formed in support of 2010 Republican gubernatorial hopeful Adam Andrzejewski, reported spending $20,000. The money was reported in August for television production expenses. Adam for Illinois did not report spending money to broadcast television ads. For the Good of Illinois, another committee

associated with Andrzejewski, reported spending $53,045, reported in over three similar amounts from late September through the end of October for television advertising, media production and radio advertising. Both of these committees are subject to contribution limits; neither is organized as an independent expenditure only committee. As such they are not covered by statutory prohibitions on independent expenditure committees coordinating with other political committees.

Citizens for a Better Quincy reported $60,000 in independent expenditure spending, all of it for television advertisements in October. The committee formed in April of 2010 as a political action committee, subject to limits and allowed to coordinate with other committees, and raised less than $5,000 in its first two years, most of it in small, non-itemized contributions. In April 2012, the committee transferred $1,000 to Friends for Randy Freese, but reported no other transfers. As of September 30, 2012, the committee had a balance of $1,616.92 and was filing reports on paper, meaning that it raised less than $10,000. But in October 2012, the committee reported raising $60,000 from four donors: two $20,000 contributions (one from Otto Engineering, a Carpentersville company associated with Jack Roeser, and the other from Bruce Rauner of Chicago) and two $10,000 contributions (one from Patricia Foglia of North Barrington and one from Richard Uihlein of Lake Forest). None of the donors live near Quincy. Rauner also gave $10,000 to For the Good of Illinois, which was reported one day after the Citizens for a Better Quincy contribution was disclosed. Like For the Good of Illinois, Citizens for a Better Quincy is not an independent expenditure committee and so is allowed to coordinate with other committees up to the $50,000 contribution limit.

All of the uncoordinated spending in this race was intended to advantage Freese. It provide an uncoordinated supplement equal to 42% of Freese's fundraising, and 18% of Sullivan's. Voters returned Sullivan to another term in office with 56% of the vote.

29th Senate Race

This open-seat race, straddling Cook and Lake counties, pitted Republican Arie Friedman against Democrat Julie Morrison. The two candidates reported raising almost $1 million in total. Morrison had the resource advantage with $561,100 to Friedman's $350,600.

The race saw $167,714 in uncoordinated spending, all of it intended to advantage Friedman's campaign. Spending includes $81,980 by The JOBS PAC, supporting Friedman, and $85,733 opposing Morrison spent by Liberty Principles PAC. The three expenditures reported by Liberty Principles PAC were directed at multiple candidates. Allocating these expenditures among the candidates listed would reduce their spending focused at Morrison to $34,899, and would also reduce the total uncoordinated spending to $116,879. Using the larger total ($167,714), the uncoordinated spending in the race intended to advantage Friedman's campaign provided an uncoordinated supplement to Friedman's campaign equal to $48% of the amount he reported raising. Using the smaller (but likely more accurate) number would reduce the size of the supplement to 33%.

Voters elected Morrison to the seat with 54.4% of the vote

31st Senate Race

This open seat contest between Republican Joe Neal and Democrat Melinda Bush reported $1.2 million in total candidate resources. Bush reported the greater share of fundraising, at $750,400, while Neal reported $453,400 in receipts.

The contest drew $156,000 in uncoordinated spending, all of it opposing Neal and by Personal PAC. This was the only Senate race where one group spent more than $100,000 in independent expenditures, thereby triggering the removal of limits on all candidates. Neither candidate took advantage of the removal of limits, possibly because contribution limits in Illinois are so high to begin with. The Personal PAC spending provided an uncoordinated supplement to Bush's campaign equal to 21% of the amount she reported raising.

Voters elected Bush to the seat with 51% of the vote.

77th House District

In the 77th House District, long-time incumbent Republican Angelo "Skip" Saviano faced a challenge from Democrat Kathleen Willis. Candidates reported raising a combined $1.3 million for the race, including $770,000 by Saviano and $556,000 by Willis. On top of that, the National Realtors Association reported independent expenditures totaling $86,200 in support of Saviano's candidacy.

Independent expenditures in the race provided an uncoordinated supplement to the Saviano campaign equal to 11% of what Saviano's campaign reported raising.

When the ballots were counted, Democratic challenger Willis won the election with 52.6% of the vote.

28th Senate District

One of the more expensive races in 2012 was in the 28th Senate District, between incumbent Democrat Dan Kotowski and Republican Challenger Jim O'Donnell. Candidates combined to raise more than $1.6 million, though most of the money was on Kotowski's side ($1.3 million to O'Donnell's $350,600).

Total reported independent expenditures in the race reached $149,952, although over $52,000 of that total came from Liberty Principles PAC, which reported expenditures addressing multiple candidates in different races as a lump sum. A fairer allocation would suggest that only $17,298 was actually spent in Kotowski's race. The JOBS PAC spent $90,990 in opposition to Kotowski. Only $6,521 was spent to advantage Kotowski's campaign, all by the Illinois Immigrant Action PAC. Depending on how one assigns the value of the reported independent expenditures

intended to advantage O'Donnell's campaign, those independent expenditures provided an uncoordinated supplement of either 41% or 31% of the amount he reported raising.

Kotowski was returned to office with 57.3% of the vote.

111th House District

The race between incumbent Democrat Dan Beiser and challenger Republican Kathy Smith was among the most expensive House races, reporting $1.3 million in combined candidate resources. Beiser had the lion's share of the candidate funds, $869,200 to $387,200 for Smith.

All of the independent expenditures reported in the race were intended to advantage Smith's campaign. The Republican State Leadership Committee reported spending $4,411 in support of Smith and $70,369 opposing Beiser. These independent expenditures provided an uncoordinated supplement to the Smith campaign equal to 19% of the amount the campaign reported raising.

Beiser was returned to Springfield with 58.5% of the vote.

68th House District

This open-seat House race was in the middle quintile of House races when measured by candidate resources, but nearer to the top when measured by outside group involvement. The two candidates, Democrat Carl Wasco and Republican John Cabello, combined for $491,500 in total reported resources; Cabello had the cash advantage at $329,500 compared with Wasco's $162,000.

Outside groups reported spending $60,475 in the race, all of it intended to advantage Democrat Wasco. Most of this money came from the National Association of Realtors ($35,200, in support of Wasco) and Personal PAC ($24,300, in opposition to Cabello), although the State Council of Sheet Metal Workers reported some small activity ($1,000). The uncoordinated spending provided an uncoordinated supplement to the Wasco campaign equal to 37% of the amount the campaign reported raising.

Republican John Cabello won the seat with 53.3% of the vote.

58th House District

This open seat House contest saw $701,500 in total combined resources, with the fundraising favoring Democrat Scot Drury ($476,400) over Republican Mark Shaw ($225,100).

This race saw some unusual independent expenditures, in that the Democratic Party of Illinois ($27,500) and the Democratic Majority (the legislative caucus committee of the House Democrats; spent $28,500) combined to spend $56,000 in support of Drury. This is unusual because there are no contribution limits on giving by parties and caucuses to candidates in

general elections. Despite the committees' ability to coordinate their spending with Drury, the two committees decided to make these expenditures (which consisted of mailings sent to voters in the final two weeks of the election) without coordinating. The uncoordinated spending intended to advantage Drury provided an uncoordinated supplement to his campaign equal to 12% of the amount the campaign reported raising.

Drury won the election with 55.8% of the vote.

52nd House District

The 52nd House District was an open seat contest between Republican nominee David McSweeney and independent Dee Beaubien. The seat was open due to the death of incumbent Republican Mark Beaubien. When McSweeney defeated appointed incumbent Kent Gaffney in the Republican primary, Mark Beaubien's widow announced her candidacy as an independent. Both candidates reported raising nearly $1 million each for the general election: $979,700 by Beaubien and $890,800 by McSweeney. Both candidates also self-financed to an extent such that contribution limits were removed, Both took advantage of the lack of limits by accepting contributions in excess of contribution limits.

Outside groups spent $55,800 in the race. Most of this uncoordinated spending was intended to advantage McSweeney ($46,000) with the remainder ($9,800) intended to advantage Beaubien. The JOBS PAC spent $26,000 and GOPAC Illinois spent $20,000, all to advantage McSweeney, while Illinois Immigrant Action PAC spent $9,812 to advantage Beaubien. With significant candidate fundraising, the uncoordinated spending was a minor element in the race. Expenditures intended to advantage Beaubien amounted to 1% of the amount her campaign reported raising, while expenditures on the McSweeney side of the ledge amounted to 5% of the amount his campaign reported raising.

McSweeney won the election with 59.2% of the vote.

23rd Senate District

This race featured long-time incumbent Republican Carole Pankau against Democrat Thomas Cullerton. The candidates reported a combined $719,800 in resources, and were fairly evenly matched: challenger Cullerton reported $376,200 to incumbent Pankau's $343,600.

Outside groups reported independent expenditures $51,700 in the race, all of it intended to advantage Cullerton. Personal PAC spent51,240 in opposition to Pankau, while Illinois Immigrant Action PAC spent $513 in support of Culleton. The independent expenditures intended to advantage the Cullerton campaign provided an uncoordinated supplement equal to 14% of the amount the campaign reported raising.

Voters elected Cullerton to the seat with 51.2% of the vote.

56th Senate District

Among the most expensive races in 2012, this Metro East contest between incumbent Democrat William Haine and Republican challenger Mike Babcock reported $1.5 million in total candidate resources. The incumbent had the fundraising advantage with $1.2 million in contributions, while Babcock reported raising $305,000.

Outside groups reported independent expenditures of $51,557 in the contest. All of these expenditures were intended to advantage Haine. The National Association of Realtors spent $40,202 in support of Haine, while The JOBS PAC spent $11,000 and the Pro-Life Victory Fund $355. These expenditures provided an uncoordinated supplement to the Haine campaign equal to 4% of the amount Haine's campaign reported raising.

Voters returned Haine to another term in office with 58.8% of the vote.

57th House District

This north suburban district featured incumbent Democrat Elaine Nekritz against Republican Jonathan Greenberg. Nekritz reported about $1 million in total fundraising, while Greenberg disclosed $382,000.

Outside groups reported independent expenditures of $107,003 in the race The JOBS PAC spent $16,000 and Illinois Immigrant Action PAC spent $5,270 in support of Nekritz. Liberty Principles PAC reported three independent expenditures with a value of $85,733 in opposition to a group of candidates in several races, including Nekritz'. If those expenditures are allocated per candidate, the value of expenditures in opposition to Nekritz would decrease to $56,233 and the total independent expenditures in the race would decrease to $77,503. Independent expenditures intended to advantage Nekritz provided an uncoordinated supplement to the campaign equal to 2% of the amount her campaign reported raising. Independent expenditures intended to advantage Greenburg provided an uncoordinated supplement to the campaign equal to 22% of

the amount his campaign reported raising if taken a full reported value, or 15% if calculated per candidate.

Voters returned Nekritz to the legislature with 55.5% support.

79th House District

This central Illinois open seat district saw Democrat Kate Cloonen and Republican Glenn Nixon raise a combined $904,300. Nixon had the fundraising advantage by more than two-to-one, at $659,200 compared with $245,100 for Cloonen.

GOPAC reported the only independent expenditures in this race: $40,000 intended to advantage Nixon. This spending provided an uncoordinated supplement to the Nixon campaign with a value equal to 6% of what the campaign itself reported raising.

Despite being outspent both by Nixon and among independent expenditures, Cloonen won with 50.2% support.

62nd House District

This DuPage County seat saw incumbent Republican Sandy Cole against Democrat Sam Yingling. Candidates reported a combined $408,100 in fundraising. Challenger Yingling had a clear advantage: $238,900 to $169,200 for the incumbent Cole.

Outside groups reported independent expenditures of $36,000, all of it intended to advantage Yingling. The National Association of Realtors accounted for the bulk of the spending, with $35,699 in expenditures. The Illinois Immigrant Action PAC spent $262. These expenditures provided an uncoordinated supplement to the Yingling campaign with a value equal to 15% of the amount Yingling's campaign reported raising.

Yingling won the seat with 55.3% of the vote.

34th Senate District

This open seat Rockford district saw two candidates raise a combined $642,100. Democrat Steve Stadelman had two-thirds of that at $419,400, while Republican Frank Gambino reported $222,800.

The National Association of Realtors spent $35,200, in support of the Republican, Gambino. This expenditure provided an uncoordinated supplement to the Gambino campaign with a value equal to 16% of the amount Gambino's campaign reported raising.

Stadelman won the election with 62.8% of the vote.

48th Senate District

This central Illinois open seat contest was the most expensive in the state when measured by total candidate resources. Democrat Andy Manar reported raising $1.5 million; Republican Mike McElroy reported $934,300. Political parties and legislative caucuses played a central role in this race.

The JOBS PAC reported $94,986 in independent expenditures in support of McElroy. These expenditures provided an uncoordinated supplement to the McElroy campaign with a value equal to 10% of the amount the campaign itself reported raising.

Democrat Manar was elected to the State Senate with 55.3% of the vote.

55th House District

This north-suburban, open-seat contest between Democrat Marty Moylan and Republican Susan Sweeney reported $1.4 million in candidate resources and was the second most expensive House contest in 2012. Both candidates reported significant support from state parties and legislative caucuses. Moylan reported $816,900 to Sweeney's $631,900.

Independent expenditure groups reported spending $86,355 in the race. All of the uncoordinated spending was intended to advantage Sweeney's campaign. GOPAC spent $16,761 opposing Moylan, and another $17,004 supporting Sweeney. Liberty Principles PAC reported spending a total of $52,571 in three expenditures in opposition to multiple candidates in several geographic areas, including Moylan. Allocating these expenditures would decrease the value of spending by Liberty Principles PAC in the 55th House District to $17,299 and the overall amount of independent expenditures by all groups to $51, 063. At full reported value, the independent expenditures in this race provided an uncoordinated supplement to the Sweeney campaign with a value equal to 14% of the amount her campaign reported raising. At the more accurate allocation, the supplement would be equal to 8% of the amount her campaign reported raising.

Voters sent Moylan to office with 53.2% of the vote.

72nd House District

This Quad Cities district saw incumbent Democrat Patrick Verschoore against Republican Neal Anderson. Candidates combined for $727,000 in total reported fundraising, including $509,100 by the incumbent and $217,900 by the challenger.

Liberty Principles reported $78,500 in spending intended to advantage Anderson. That spending involved two expenditures attributed to multiple candidates in several districts. Distributing those expenditures to the candidates listed would decrease the value of expenditures made in the 72nd

House District to $31,768. At full reported value the independent expenditures in this race provided an uncoordinated supplement with a value equal to 36% of the amount Anderson's campaign reported raising. At the more accurate accounting, the supplement would be equal to 15% of Anderson's campaign resources.

Voters returned Verschoore to the House with 64.3% of the vote.

98th House District

This open seat in a south suburban district featured Republican Bob Kalnicky and Democrat Natalie Manley. Candidates combined for $1.2 million in contributions, including significant party and caucus support. Manley had the fundraising advantage with $787,800 in resources compared with $389,800 for Kalnicky.

Liberty Principles PAC reported $47,357 intended to advantage Kalnicky. One was a stand alone expenditure of $22,975 opposing Manley. The other two expenditures totaling $24,400 opposed multiple candidates in several districts; a fair allocation of shared expenditures would show that the PAC spent $33,708 in the district. At the full reported value, the independent expenditures in this race provided an uncoordinated supplement to the Kalnicky campaign with a value equal to 12% of Kalnicky's reported resources. At the more accurate level, the supplement would be equal to 9% of Kalnicky's resources.

Voters sent Manley to Springfield with 60.8% support.

71st House District

This Quad Cities district saw incumbent Republican Richard Morthland against Democrat Mike Smiddy. Both candidates reported a combined $415,900 in resources --$146,900 for the incumbent and $269,000 for the challenger.

Personal PAC reported $24,300 in uncoordinated spending, intended to advantage challenger Smiddy by opposing Morthland. This House seat is within the 36th Senate District, which saw substantial outside spending. The other House seat in the district, the 72nd, saw some reported outside spending that overlapped with the Senate seat, but none of the outside groups that were active in the 36th Senate and 72nd House seats reported any activity in the 71st District. The Personal PAC expenditures provided an uncoordinated supplement to the Smiddy campaign with a value equal to 9% of the amount his campaign reported raising.

Voters elected Smiddy with 51.7% support.

46th House District

This open seat contest saw $913,100 in combined fundraising reported by Democrat Deborah O'Keefe Conroy ($686,500) and Republican Daniel Kordik ($226,600).

Liberty Principles PAC reported independent expenditures of $44,200, intended to advantage Kordik. One as a stand-alone expenditure of $19,908 opposing Conroy. The other two, which totaled $24,400, opposed multiple candidates including Conroy. A more accurate count would likely attribute $3,233 of the shared expenditures to this district, putting the total at $23,042. At full reported value, independent expenditures provided Kordik with an uncoordinated supplement equal to 19% of his campaign's resources. At the more accurate valuation, the supplement would be equal to 10% of the Kordik's campaign resources

Voters chose Conroy to represent them in the legislature with 57.7% of the vote.

49th Senate District

This south suburban open seat contest saw $1.4 million in total fundraising reported by the two candidates, Republican Garrett Peck ($575,800) and Democrat Jennifer Bertino-Tarrant ($801,900). Both parties played a significant role in fundraising in this contest.

Outside groups reported $17,385 in uncoordinated activity in this district, all of it intended to advantage Peck, including $15,000 by The JOBS PAC for "voter outreach and calls" on October 25. Peck's campaign reported the $15,000 as an in-kind contribution, which Peck's campaign later explained was because it were aware of the B-1 filing with the State Board of Elections. Peck's committee has denied any active coordination and has said the filing was in error. All uncoordinated spending in the race provided Peck with an uncoordinated supplement worth 3% of his campaign resources.

Voters elected Bertino-Tarrent to the seat with 52.7% of the vote.

46th Senate District

This Peoria-based district saw incumbent Democrat Dave Koehler against Republican Pat Sullivan. Candidates reported a combined $1.7 million with significant party and caucus support, including $916,500 by Koehler and $801,800 by Sullivan.

The JOBS PAC reported $15,000, in support of Sullivan. This uncoordinated activity could be viewed as a supplement to Sullivan's campaign of less than 2% of his campaign's reported fundraising.

Koehler was returned to another term in the State Senate with 54.2% of the vote.

52nd Senate District

This Champaign/Urbana-based district saw incumbent Democrat Mike Frerichs against Republican challenger John Bambanek. Both candidates reported a combined $582,000, nearly all of it by Frerichs ($523,600, as compared to Bambanek's $58,400).

For the Good of Illinois reported spending $3,000 in the race, aligned with Bambanek. This provide an uncoordinated supplement to Bambanek's campaign equal to 5% of his campaign's resources.

Frerichs was returned to office with 64.9% of the vote.

IV. Recommendations

Require Disaggregation of Expenditures Made in Respect to Multiple Races or Candidates

Persons or committees engaging in independent expenditures are required to file disclosure reports whenever they spend $1,000 or more during the last 30 days before an election:

A political committee that makes independent expenditures of $1,000 or more during the period 30 days or fewer before an election shall electronically file a report with the Board within 5 business days after making the independent expenditure. (10 ILCS 5/9-10(e))

Independent expenditures are defined in relation to "a clearly identifiable public official or candidate." It seems clear from statute that expenditures should be reported in relation to a single candidate.

It is also apparent from recent filings that some expenditures were made with regard to multiple candidates: for example, mailings or radio, TV or print advertisements that name two or more candidates (as in a postcard that criticizes candidates for House and Senate, both of whom will be on the same voter's ballot).

Common sense rules exist for the allocation of expenses in shared expenditures in other situations. At the federal level, for instance, party activity that benefits federal and state candidates must be allocated evenly among all of the candidates that benefit. For example, a mailer that mentions a federal candidate and a state candidate must be paid for with a proportionate share of federal PAC funds (so-called "hard money"), while the portion benefiting the state candidate may be paid for with funds from a state PAC.

Entities making independent, uncoordinated expenditures that benefit multiple candidates should be required to report the share of the cost related to each candidate covered in the expenditure. This could be calculated as a simple proportion of the number of candidates involved in each expenditure: a single mailing that names three would be reported as one-third of the total cost for each of the three candidates; a professional service fee related to several advertisements relating to several candidates would be calculated first based on the proportionate cost of each advertisement and then by the number of candidates in each advertisement.

The ultimate goal of disclosure is to facilitate the informed participation of citizens in the political process. To that end, disclosure requirements should provide the maximum transparency of receipts and expenditures by political committees in a meaningful timeframe prior to elections while minimizing the administrative burden on the campaigns themselves. Rules promulgated by the State Board of Elections that prohibit committees from reporting multiple expenditures for items on a credit card as one lump sum amount are a clear example of the application of this principle. The same logic should be applied to the reporting of independent expenditures, either through statutory language (if changes are necessary) or agency rules or enforcement actions.

Redefine "Coordination" and "Independence" in the context of the Risk of Corruption

Illinois law defines independent expenditures as:

> "any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign." (10 ILCS 5/9-1.15)

At the time this definition was enacted the intention was to distinguish between activities that should be reported by a candidate as well as by the spender, from activities that did not need to be reported by the candidate. The definition did not anticipate the need for including the concept of corruption risk because Court rulings prior to *Citizens United* and *SpeechNow*, allowed for limits on giving to all political committees. All contributions or expenditures made to influence elections raised the possibility of corruption or the appearance of corruption through a quid pro quo between the source of the funda and the candidate benefiting. As such, this activity was subject to statutory contribution limits. The Court altered this logic by holding that expenditures that were not coordinated with a candidate ("independent") could not result in a quid pro quo and could not be subject to contribution limits, prior reasoning notwithstanding.

The distinction between a contribution to a candidate, which is subject to disclosure and limits, and an independent expenditure is that the independent expenditure is "is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate… or the[ir] agent or agents." If an expenditure is made in connection, consultation or concert, then it must be reported to the candidate; if it is not made in connection, consultation, or concert, then it need not be reported to the candidate.

Illinois' current statutory definition is not a test for real or apparent corruption. Even the *Citizens United* ruling concluded that it was appropriate to regulate campaign finance when spending presented a risk of real or apparent corruption. But the current definition does not consider ways that spending that is not actively "in connection, consultation, or concert" with a candidate can still present risks of real or apparent corruption. Consider: these examples from federal elections:

1) Particularly in the presidential contest, SuperPACs are identified in the press as being closely associated with particular candidates. Priorities USA was closely associated with President Obama[107], Restore Our Future was widely recognized as the Romney SuperPAC[108], and other presidential candidates each had their own SuperPACs[109].

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[107] http://www.chicagotribune.com/news/la-pn-obama-super-pac-decision-20120215,0,327692.story

http://www.chicagotribune.com/news/la-pn-obama-campaign-super-pac-decision-20120207,0,1082004.story

2) Contributors to SuperPACs have avowed their support not just for the SuperPAC and its ostensible goals but also for the particular candidate the SuperPAC supports[110].

3) SuperPACs are often founded, staffed, and run by people with long personal and professional connections to the candidate they purport to be separate from[111].

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http://www.nytimes.com/2012/02/07/us/politics/with-a-signal-to-donors-obama-yields-on-super-pacs.html?_r=1&exprod=myyahoo&pagewanted=all

[108] http://www.latimes.com/news/nationworld/nation/la-na-money-election-20120101,0,4157616,full.story
[109] Gingrich, Perry, and Huntsman SuperPACs: http://www.washingtonpost.com/politics/super-pacs-helping-republican-candidates-close-in-on-obama/2012/01/31/gIQA0lcKgQ_print.html

http://www.nytimes.com/2012/02/02/us/politics/super-pac-filings-show-power-and-secrecy.html?_r=1&exprod=myyahoo&pagewanted=all

[110] Sheldon Adelson & Newt Gingrich:
http://www.dailyfinance.com/2012/01/31/whos-buying-your-next-president-sheldon-adelson-makes-his-bid/?ncid=webmail2

http://www.nytimes.com/2012/02/01/us/politics/campaign-finance-reports-show-super-pac-donors.html?_r=1&pagewanted=all

Foster Friess & Rick Santorum:

http://www.npr.org/2012/01/19/145473357/billionaire-foster-friess-discusses-campaign-finance

[111] Adelson & Gingrich:http://www.nytimes.com/2012/01/10/us/politics/sheldon-adelson-a-billionaire-gives-gingrich-a-big-lift.html?hp=&pagewanted=all

Romney: http://www.washingtonpost.com/politics/super-pacs-alter-the-dynamics-of-fundraising/2012/01/05/gIQAH3dzjP_story.html?hpid=z10

http://news.yahoo.com/mysterious-donor-pro-romney-pac-identified-160307460.html

Huntsman: http://www.nytimes.com/2011/12/04/us/politics/jon-huntsmans-cash-poor-campaign-gets-help-from-father.html?hpw=&pagewanted=all

Perry: http://www.nytimes.com/2011/11/02/us/politics/super-pac-begins-ads-for-rick-perrys-campaign.html?src=recg

Herman Cain: http://www.nytimes.com/2011/10/20/us/politics/herman-cains-allies-form-a-super-pac.html?_r=1&src=rechp

4) SuperPACs have hosted the candidates they are supporting at the SuperPAC's own "independent" fundraising events[112].

5) SuperPACs have announced their intention to seek funding from a candidate's supporters who have given the legal maximum directly to the candidate, with a clear understanding that the money will be used to support that candidate in the next election[113].

For all of these reasons, there is an obvious risk of real or apparent corruption from some "independent" activities. Whether the entity does or does not actively plan expenditures in concert with the candidate, it remains apparent that the candidate is intimately involved in raising funds from donors to support the activities, is aware of the donor's actions that make possible the expenditures, and might well feel grateful or indebted to the donors once in public office.

Indeed, other states have already modified their definitions of "independent" activities in order to address this risk of corruption. Several states, including California and Connecticut, have clarified their definitions of "independent" to account for the risk of corruption rather than just disclosure standards. Legislation now pending in Congress would likewise change the federal definition to reduce the risk that an unlimited contribution to a PAC will raise serious concerns about the integrity of government after the election. All of these are instructive as to how Illinois might clarify the statutory definition of "independent" so as to reduce the risk of actual or apparent corruption.

Connecticut, for instance, has amended its statute to clarify activities that are not "independent expenditures," including:

- "An expenditure made …for the production…of any broadcast or any written, graphic, or other form of political advertising … prepared by (A) a candidate… or (B) a consultant or … agent … of a candidate." [Sec. 9-601c(b)(2)]
- "An expenditure … based on information about a candidate's… plans, projects or needs, provided by (A) a candidate… or (B) a consultant or agent … of a candidate." [Sec. 9-601c(b)(3) and (7)]

Obama:http://www.bloomberg.com/news/2011-04-29/democrats-start-two-campaign-fundraising-groups-for-obama-re-election-bid.html

In General:http://www.suntimes.com/news/marin/9792439-452/newts-right-on-superpac-lie.html

http://www.thedailybeast.com/articles/2011/08/06/super-pacs-raise-millions-but-distort-political-process.html

[112] http://www.nytimes.com/2011/08/28/us/politics/28donate.html?hpw=&pagewanted=all

http://www.politico.com/news/stories/0212/72948_Page2.html

[113]http://tpmmuckraker.talkingpointsmemo.com/2012/02/lawyer_behind_citizens_united_case_just_because_i_brought_america_super_pacs_doesnt_mean_i_like_them.php?ref=fpnewsfeed

- “An expenditure… for fundraising activities (A) with or for a candidate… or (B) for the solicitation or receipt of contributions on behalf of a candidate.” [Sec. 9-601c(b)(6)]
- “An expenditure … for consultant or creative services… related to … a candidate’s election… if the provider of such services is also providing consultant or creative services to such candidate…” [Sec. 9-601c(b)(9)]

Statutory language approved by the Connecticut General Assembly but vetoed for other reasons included these additional restrictions on “independent expenditures:”

- “An expenditure made by a person or an entity … in the year of election in which a candidate is seeking office that benefits such candidate when such person or entity has hired an individual as an employee or consultant and such individual was an employee or consultant to such candidate during any pert of the eighteen-month period preceding such expenditure.” [Proposed new Sec. 9-601c(b)(10)]
- “An expenditure made by a person or an entity… in the year of an election in which a candidate is seeking office that benefits such candidate when such person or entity making the expenditure has hired a campaign-related vendor that has been hired by such candidate during the same election cycle. For the purposes of this subdivision, campaign-related vendors includes, but is not limited to, vendors that provide the following services: Polling, mail design, mail strategy, political strategy, general campaign advice or telephone banking.” [Proposed new Sec. 9-601c(b)(11)]

Recent federal legislation built on these two approaches. On the topic of coordination, the Empowering Citizens Act (HR 6448) would broaden the sense of “cooperation” thusly:

(1) IN GENERAL.—For purposes of this section, a payment is made ‘in cooperation, consultation, or concert with, or at the request or suggestion of,’ a candidate, an authorized committee of a candidate, a political committee of a political party, or agents of the candidate or committee, if the payment is not made entirely independently of the candidate, committee, or agents, including a payment which is made pursuant to any general or particular understanding, or more than incidental communication with, the candidate, committee, or agents about the payment.”

Communications are not excluded if the shared information is the candidate’s “legislative or policy position.”

The Empowering Citizens Act would also exclude from the realm of “independence” any expenditure by a person or entity

- “directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or committee or agents of the candidate or committee, including with the express or tacit approval of the candidate or committee or agents of the candidate or committee.” (2)(A)
- where the “candidate or committee or agents of the candidate or committee solicit funds or engage in other fundraising activity on the person’s behalf during the election cycle

involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity." (2)(B)

- Who shared staff, employees, consultants or vendors with the candidate. (2)(C) and (2)(E).
- "the person has had more than incidental communications with the candidate or committee or agents of the candidate or committee about the candidate's campaign needs or activities, or about the person's possible or actual campaign activities with respect to the candidate or committee." (2)(D)

Both the federal experience in 2012 and an examination funding for the two candidates for Governor in the 2010 general election in Illinois strongly suggest the dynamic in 2014 will create pressure for fraudulent coordination between candidates and independent expenditure committees (both multi-candidate and single candidate) in state-wide elections.

In the 2010 general election one national committee contributed $7.9 million to Senator Brady's campaign (44% of the $17.9 million raised by Brady for the general election) while another national committee contributed $1.8 million to Governor Quinn's campaign (12% of the $15.2 million raised by Quinn for the general election). The Quinn campaign raised more than $9 million in contribution of $50,000 or more. The Brady campaign raised more than $10.9 million in contributions of $50,000 or more. If Illinois' contribution limits had been in effect in 2010 that money would have shifted to independent expenditures in order to legally influence the election. Adopting a more rigorous set of standards and definitions of "coordination" and "independent" in 2013 will help insure that the integrity and the appearance of the integrity of the political process is maintained as the system adapts to the post-Citizens United election framework.

Require disclosure from politically active non-profits

Part of the 1998 law that instituted electronic filing and banned personal use of campaign funds was a provision requiring disclosure from non-profit organizations that make political expenditures. As originally enacted, the former Sec. 5/9-7.5 required a non-profit "that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding $5,000" with regard to a candidate to register with the State Board of Elections and file disclosure reports.

The provision was designed to ensure that the public could learn the source of funds used to communicate with voters about candidates. It was also viewed as onerous by non-profits that made incidental expenditures that triggered registration and disclosure.

The 2009 law that instituted contribution limits repealed Sec. 9/7.5, on the thinking that non-profits could not give more than $10,000 to any candidate, and so any risk of corruption would be contained. Subsequent changes to the law, however, removed contribution limits from committees engaged in independent expenditures, meaning that once again unlimited money made anonymous by passing through a non-profit can once again steer political discourse.

Since it is again possible for entities to shroud the true source of funds used to communicate with voters about candidates through superPACs and independent expenditures? , Illinois should reinstate a registration and disclosure system for non-profit entities that funnel money to independent expenditure committees.

Models exist for approaching this question. For example:

* California statutes require that non-profits engaged in political activity reveal the amount of their spending, and list donors to account for the source of those funds. Per regulation § 18412, disclosure is to include first donations made expressly for political purposes, and then to include donations that are not expressly restricted in ways that foreclose political uses. Funds that are restricted to foreclose political uses do not need to be disclosed.

* Connecticut's proposal also addressed funds raised by non-profit entities that claimed to be exempt from political committee disclosure. New Sec. 9-612(6) added disclosure requirements. The new proposal would have required that any entity that:

> "(i) is able to accept donations into its general treasury, (ii) engages in an independent expenditure [during the year in] which there will be an election for the office that a candidate who was the subject of such expenditure is seeking, and (iii) makes such campaign-related disbursement out of its general treasury, then such entity shall disclose the source and the amount of all donations to the general treasury, including dues payments, if any, [above a threshold]."

The proposal would have exempted from disclosure giving by any donor that was expressly restricted in a way that prevented the entity from spending the money on independent expenditures.

The ultimate goal of disclosure is to facilitate the informed participation of citizens in the political process. To that end, disclosure requirement should provide maximum transparency of receipts and expenditures by political committees. The existence of anonymous "dark" money threatens both the integrity of the process and the willingness of citizens to accept the political process and the outcome of the process as legitimate.

Require Federal PACs Making Expenditures in the Days Before an Election Should Be Required to File Disclosure Reports on Par with State and Local PACs

For decades, the Illinois State Board of Elections has allowed federal PACs engaging in Illinois elections to do so by filing a D-1 Statement of Organization and no other disclosure reports. The basis for this policy was that federal PACs faced more frequent disclosure (quarterly or monthly, at a time when state PACs disclosed semi-annually) and federal PACs faced more restrictions on their fundraising than state PACs (federal PACs could accept funds only from natural persons, and in limited amounts).

SuperPACs present a challenge to the assumptions that undergirded Illinois' policy. SuperPACs, at the state and federal levels, face the same wide-open rules for fundraising (they may accept as much as they can get from whatever entity will give it to them), but federal SuperPACs disclose the source of their funds on a more lax schedule (monthly or quarterly, with no supplemental reports for large contributions). Moreover, disclosure reports filed by federal SuperPACs are not as widely available as are reports filed with the State Board of Elections.

In the fall of 2012, Liberty Principles PAC, a state PAC organized on in early October, reported receiving funds from Liberty Principles, apparently a federal PAC organized last February. (It is also possible that these two entities, which share officers and an address, are in practice and in fact the same entity). The Illinois-organized Liberty Principles PAC reported spending $215,168.18 with regard to seven races all over the state, but listed the sole source of all of its funds as the "Liberty Principles." It was not immediately clear what that "Liberty Principles" was – it was not described as a PAC, and it was not clear from state filings where the source of the funds could be found. The federal Liberty Principles PAC filed disclosure reports with the Federal Elections Commission noting the source of their funds, but some of these were not disclosed until after the election. Had Liberty Principles PAC been organized under state law, they would have been required to report the true source of their funds in supplemental reports filed before the election.

The State Board of Elections currently allows federal PACs to participate in Illinois state and local elections by filing a D-1 Statement of Organization but then making no other disclosures to state or local authorities. Rule 110.60(b) declares:

> Any "person" or "whoever", as defined by Section 9-1.6 of the Election Code, qualifying as a political committee under Article 9 of the Election Code and filing Federal Election Commission reports may choose to comply with the provisions of Article 9 of the Election Code by so indicating on a Statement of Organization (Form D-1) filed with the State Board of Elections.

The rule was adopted at a time when federal PACs faces contribution limits (state and local PACs did not) and when federal PACs filed quarterly or monthly reports and state PACs filed semi-annual reports. With regard to both fundraising and disclosure, federal rules were more strict than Illinois' rules. Now that there are some federal PACs that operate under looser rules than some state PACs, there is a need to change the rule so that Illinois voters are afforded sufficient information before the cast ballots.

The Board should modify Rule 110.60 at a minimum to make clear that federal PACs that operate under fundraising and disclosure rules that are not comparable with Illinois rules for Political Action Committees (if, for example, they raise funds without regard to limits or that file disclosure reports that will not reveal the source of all of the funds used before an election must also file supplemental reports with the State Board) are not eligible for this filing option. It would also be appropriate to repeal the rule entirely, so that all PACs operating in Illinois elections do so on an equal footing

V. Methodology

Data for this report comes from several sources:

- Information on candidate resources is derived from campaign disclosure forms filed with the State Board of Elections, looking at the quarterly report for the period ending September 30 and supplemental reports filed after September 30. Candidate resources are measured by adding cash on hand, including investments, on July 1 with all reported cash and in-kind receipts since then, including itemized and non-itemized receipts between July 1 and September 30, and contributions of $1,000 or more reported on A-1 forms after September 30. Fuller information about candidate spending should be available on the Quarterly Report for the period ending December 31, 2012, due to be filed with the State Board of Elections by Tuesday, January 15, 2013, but these were not filed prior to this report's publication date.

- Fundraising by groups engaging in Independent Expenditures, including expenditures by both Independent Expenditure Committees, Political Action Committees, and Political Party Committees, are derived in the same method as were totals for candidate committees. Independent Expenditure totals are derived from the quarterly reports filed by committees and supplemental B-1 reports filed after September 30. Fuller information may be available in the Quarterly Reports filed by groups engaged in Independent Expenditures, though we assume that entities organized to make Independent Expenditures, such that they are except from contribution limits, would tend to raise money in large increments, subject to supplemental A-1 disclosure reports.

- Vote percentages are derived from totals in the official results, certified by the State Board of Elections on Sunday, December 2, 2012.

Public Hearing Testimony
January 17, 2013

Statement of David Morrison
Deputy Director of the Illinois Campaign for Political Reform
To the Campaign Finance Reform Task Force

Public Hearing on Independent Expenditures

January 17, 2013

Good Morning, Madame Chairwoman and Members of the Task Force, My name is David Morrison, I am the Deputy Director of the Illinois Campaign for Political Reform, and I am delighted to speak with you all today about ICPR's research into the role of independent expenditures and SuperPACs in the fall 2012 General Election.

Last week Prof. Kent Redfield and I presented to you some preliminary findings based on the supplemental reports filed by candidates and interest groups during the fall campaign. Two days ago, on Tuesday the 15th, the full Quarterly Reports were due to be filed with the State Board of Elections, and so yesterday I ran through those updated numbers. To reiterate, our preliminary research found $1.7 million in Independent Expenditures in the fall. Of that, about $1.6 million was aimed at legislative races, and of that, about $1.5 million was spent by groups devoted exclusively to Independent Expenditures (ie, SuperPACs) with the balance spent by groups that could coordinate with candidates (either Political Action Committees or Political Party Committees) but chose, for whatever reason, not to. We identified almost 30 races that saw at least some "outside" spending.

I said last week that I didn't expect to see much different in the Quarterlies, but that I would get back to you this week with anything new or surprising. There were a few things that were either new or surprising. **We now see nearly $2.0 million ($1,961,407) in total outside spending in legislative races, including $1.7 million by SuperPACs** and $227,000 by political action committees that are subject to contribution limits. Almost $800,000 of this is "dark" money, transferred in from a federal PAC or a non-profit. And an additional $400,000 came from associations, presumably from surplus funds, but potentially from money raised expressly for political purposes.

In the "new" category, a small number of committees (3) reported that they had made independent expenditures that had not been previously reported. These were small expenditures, all south of $1,000, and so were not required to be disclosed on the supplemental B-1 reports. We also saw slight increases in reported total spending by some committees which had already disclosed some activity, and which did not in any instance amount to an incremental $1,000 in spending. Total reported spending by committees under contribution limits grew by about $8,000 in total.

In the "surprising" category, we saw some changes in the amount of money spent, compared with what had been reported last fall. Let me note that in the short time since these reports have

been filed, I have not had time to contact any of the committees to ask them about the changes. I don't mean here to make accusations, but only to describe what the disclosure reports show.

The largest spender of outside funds last fall was The JOBS PAC. Previously, The JOBS PAC filed B-1s suggesting that it had spent $412,932 in legislative races. Its quarterly report, though, revises that total downward, to $375,932. Four individual expenditures shrank in size: one (for "post card mailing") went from $11K to $5K, another (for "polling and research") from $5K to $4K, another (for "cable TV ads") from $30K to $5K, and one $5K expenditure (for "polling and research") disappeared entirely. It's not clear from their report why this is: were they filing the B-1 based on estimates from vendors, which proved inaccurate? Was there confusion on the vendor's part over what was actually performed or billable? Perhaps they paid for cable TV advertising only to see their ads bumped for some reason. I have not had time to ask them, but it is curious to see money reportedly spent instead disappear from the record.

Our report last week identified the 7th largest maker of Independent Expenditures as the **Republican State Leadership Committee - IE PAC.** Their B-1 reports indicated $75K in spending in the 111th House District, all to a single vendor for mailings (printing and postage) and all opposed to the incumbent Democrat. Their Quarterly Report, however, indicated $334,392 in spending, spread over two races. This makes the RSLC **the second largest SuperPAC in the election**. Their Quarterly Report shows that they **failed to report $220,000** over and above what was listed in the B-1's, spent on radio and TV advertising, **in the 111th House District, plus another $62,000** worth of TV and mailings **in the 68th House District**. **This is a significant failure** on the part of the Republican State Leadership Committee to report accurately on their activities. In the 111th House District, they reported only one-fourth of what they were doing. In the 68th House District, they failed to acknowledge any activity at all, despite spending in the mid-five-figures. And while ICPR opposes removing limits due to SuperPAC activity, it is worth noting that the RSLC's failure to report the full extent of their spending in the 111th House District race meant that limits remained in effect, when state law would have removed limits on both candidates a full month before Election Day.

Lastly, we saw an increase in total spending reported by the Illinois Immigrant Action PAC. This committee, you may recall, formed about one week before the election and had reported spending $22,378 as of the end of the year. Actually, their first report, filed on November 6 (the day of the General Election), reported having spent $19,111, and later in the week following the election, they filed additional B-1 reports showing that they had spent an additional $3,300 across several races before the election. Their Quarterly Report raises their total spending by an additional $10K, divided roughly evenly over the five races they had previously acknowledged engaging in. Their Quarterly Report lists payments in small increments to literally dozens of individuals, many of whom received less than $150. (Indeed, out of over 400 distinct independent expenditures reported for the fall Election, most, 270, were reported by Illinois Immigrant Action PAC. Their mean average expenditure was just $121.) Most of the payments were made in the week before the election (apparently for phone banking), but much of their spending, about 40%, was not reported until after Election Day; nearly a third of their spending was not reported until just this week. The group spent an average of $6K in each of the five races they engaged in, and the race with their largest involvement, was the 52nd House District, which already had no contribution limits due to self-funding by both candidates. Just the same, given

the size of their total payments in each race, they probably should have reported this spending sooner than they did.

There is much more analysis to be done on Illinois' experience of SuperPACs in the fall 2012 elections, but the evidence already makes clear that the Election Code is not working as well as it should. In order to protect the integrity of elections and the honest workings of government itself, it remains necessary that Illinois do all it can to prevent actual or apparent corruption through campaign spending. Our history demonstrates that, where one donor with a specific agenda can give outsized contributions to benefit a chosen candidate, voters become cynical, citizens lose faith, and sometimes, public policy and our democratic processes are perverted.
ICPR urges this Task Force to recommend changes to the law in order to:

- **Require disaggregation of expenditures made in respect to multiple races or candidates**

- **Redefine "Coordination" and "Independence" in the context of the risk of corruption**

- **Require disclosure from politically active non-profits**

- **Require federal PACs making expenditures in the days before an election to file disclosure reports on par with state and local PACs**

Thank you for your time, and I would be happy to take any questions you may have.

Dark Money:
GOPAC = $194,500
Liberty Principles = $240,000
Realtors - $230,000 (now listed as "dues")
RSLC = $357,186.17
JOBS - $200,000 from Mfgrs.

Statement by AARP to the Illinois Campaign Finance Task Force

Public Hearing on Independent Expenditure Political Action Committees

January 17, 2013

Chicago, IL

Good morning. My name is Gerardo Cardenas and I am the Senior Communications Manager for AARP in Illinois. I thank the members of this Task Force for the opportunity to present testimony at this public hearing concerning independent expenditure committees, the so-called super PACs.

AARP has 1.7 million members in Illinois. Our members, who are 50 years of age and older, are very active and committed participants in our nation's and our state's political processes. Nearly 80 percent of AARP members vote in every election, whether it's a national, state or local election.

AARP believes that a vibrant public voice is critical to ensure the integrity of our democratic processes and government institutions. But without urgent and needed reforms in campaign finance laws, lobbying, ethics and accountability, redistricting, voting systems and registration procedures, the public's voice in government is likely to be diminished and the health and vitality of our democracy threatened. These issues are of particular concern to older citizens.

We also believe that certain principles must be in place and should be continuously strengthened, to reinforce and sustain government integrity and civic engagement. These principles include: transparency, accountability, access and participation, full and fair representation, voter participation, and civic engagement.

One issue of particular concern to AARP members is campaign finance. As you all know, the Citizens United decision and subsequent regulatory interpretations are rapidly and dramatically changing the landscape of campaign finance.

As members of CHANGE Illinois, we are very concerned about the money already spent through independent expenditures to influence the outcome of 29 Illinois General Assembly races. As recently reported by the Illinois Campaign for Political Reform, these expenditures hovered around $1.7 million.

Our members are concerned by the fact that voters are no longer able to easily determine which individuals and groups are funding which campaign ads. This directly affects voters' ability to make informed decisions, and give proper weight to different candidates and messages. Furthermore, current regulations regarding donor disclosure requirements for independent expenditures are clearly and entirely insufficient.

Here in Illinois, the very same law that was supposed to regulate expenditures has clearly been weakened by the court decisions that exempted independent expenditure groups from any limits on how much they can accept, opening the doors to unlimited contributions.

This Task Force, however, has the ability to make recommendations that can significantly strengthen the limits systems and help restore in citizens the sense that public officials represent voters in their districts, and contributions are clear and transparent.

AARP joins CHANGE Illinois in urging the General Assembly to pass legislation improving donor information disclosure and enforcement of the remainder of the limits law.

Public trust in the political system is at an all-time low, in Illinois and across the nation. This, however, should not be a deterrent to action but, on the contrary, a stimulus to take action and restore the public's confidence in the integrity of their government and its institutions.

The State must enact a system of limits that can effectively fight corruption, provide transparency and accountability, and help AARP members as well as citizens of all ages to be involved in government knowing that officials are more responsive to the concerns of the public, than to those of moneyed special interests.

Thank you. I will be happy to answer any questions you might have.

THE LEAGUE
OF WOMEN VOTERS
OF ILLINOIS

League of Women Voters of Illinois
Statement for Illinois Campaign Finance Reform Task Force
Thursday, January 17, 2013

The issue of campaign finance reform has been a top priority of the League of Women Voters of the United States since the 1970s. Likewise, since the mid-1990's, the League of Women Voters of Illinois has been working to promote public understanding, support, and advocacy for reforming Illinois' campaign finance system. The League believes that the system of financing political campaigns should ensure the public's right to know, combat corruption, limit undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process.

Key to ensuring the public's right to know and combating corruption in campaign financing is transparency and to that end, the League argues that full and timely disclosure of campaign contributions and expenditures furthers transparency in elections.

In its *Citizens United* decision, the Supreme Court said that independent expenditures can't corrupt since they are not done in concert or coordinated with a candidate. The impact of this decision was to open the door permitting unlimited independent spending during the 2012 election.

Prior to 2009, Illinois' election code required that all spending in connection with a candidate was to be reported to the candidate as an in-kind contribution. The 2009 law, effective in 2011, directed that spending that is not coordinated with a candidate must instead be reported as an independent expenditure and spending coordinated with a candidate is reported as a contribution, subject to limits. The 2009 law limited non-profits to giving not more than $10,000 to any candidate. Subsequent changes to the law that came in the wake of *Personal PAC, et al vs William F. McGuffage, et al,* removed contribution limits from committees engaged in independent expenditures, opening a loophole where money could be given to a non-profit and contributed anonymously to a candidate committee.

The League favors closing loopholes in Illinois' Election code and supports measures requiring greater disclosure of independent expenditures. These measures should include adopting a more rigorous set of standards and narrower definitions of "coordination" and "independent" activities to address the real or perceived risk of corruption, requiring politically active non-profits to disclose donors, and requiring federal PACs who make election expenditures to disclose the source of their funds on the same basis as state PACs.

Voters deserve and need to know the sources of funding for election advertising so they can make informed decisions. Secret campaign money has no place in America's democracy - it undermines the role of the voter and corrupts the election process. Voters have a right to

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know – whether it is a corporation, union, trade association, or non-profit advocacy group making unlimited campaign expenditures and influencing elections – so they can judge the genuineness of campaign communication and advertising.

The Illinois League supports the efforts of the Illinois Campaign Finance Reform Task Force to identify ways to strengthen Illinois Statutes concerning independent campaign expenditures and encourages the Illinois General Assembly to pass measures to enhance public disclosure of those expenditures.

Jan Dorner
LWVIL President

Paula Lawson
LWVIL Campaign Finance Reform Issue Specialist

CITIZEN
ADVOCACY
CENTER

Statement by Citizen Advocacy Center to the Illinois Campaign Finance Task Force

Public Hearing on Independent Expenditure Political Action Committees

Delivered by Maryam Judar, Community Lawyer

January 17, 2012

On behalf of the Citizen Advocacy Center, I thank you for the opportunity to present testimony at this public hearing supporting a strong disclosure regime for contributions to independent political action committees.

The Citizen Advocacy Center is an award winning, non-profit, non-partisan, community-based, legal organization. Its mission is to "Build Democracy for the 21st Century." Since 1994, community lawyers have worked to build democracy by strengthening the citizenry's capacities, resources, and institutions for self-governance. The Citizen Advocacy Center motivates individuals and community groups to seek systemic solutions to issues of public concern and works to improve democratic protocols in local and state government to ensure optimal public participation in the democratic process.

The Center believes that a healthy democracy relies on a balance between government accessibility, accountability, and transparency on one side and citizen participation that is informed, active, effective, and sustained on the other. A democracy is only as strong as its participants, and that includes participants on both sides of the equation.

As a community lawyer licensed in Illinois, I have heard from people all over Illinois including down south in counties and towns near East St. Louis and in rural areas near Carbondale, and counties east of Cook and the collar counties such as Winnebago, Lee, and Whiteside Counties. They contact the Center for assistance in overcoming barriers in participating in their local government decision making processes on self-identified issues of public concern. As a natural outcome of their political participation, our clients and supporters sometimes decide to run for elected office. A common theme of their varied experiences is that opaqueness in government is a disincentive to participation.

This Task Force is poised to make strong recommendations to the General Assembly to strengthen our democracy and create a strong disclosure system for contributions to independent political action committees. To counter passivity and do-nothing criticism of our system of democracy, the Task Force should recommend that the public receive meaningful

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information as well as create meaningful consequences for unwanted behavior to ensure compliance with campaign finance law. The public needs good, quick information about who is giving and who is getting in the realm of campaign finance.

The Center supports the recommendations made by David Morrison at the Illinois Campaign for Political Reform. To be sure, the public needs quick and easily accessible information on campaign expenditures in order to make informed voting decisions. The term "independent" in "independent expenditure" is a misnomer: as a candidate who can be bought with a generous campaign contribution can also be bought with a generous independent expenditure on his or her behalf. Disclosure is as necessary to independent expenditures as it is to direct contributions.

In addition to accounting for obligations created by the current independent expenditure regulatory system, the Center supports maintaining contribution limits in Illinois. First, these are necessary limits to creating quid pro quo obligations by elected officials to their campaign contributors. Perhaps more importantly, these measures in combination help level the playing field to ensure that those in our democracy who become politically active in their communities do not feel defeated by the ever growing presence of money in politics but rather remain encouraged to keep their voice in the mix, to become part of the debate, and even run for office.

Illinois PIRG
Education Fund

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TO: Illinois Campaign Finance Reform Taskforce
FROM: Anu Dathan, Illinois PIRG
RE: Written Testimony
DATE: January 17, 2013

Thank you for the opportunity to testify before the Illinois Campaign Finance Reform Taskforce. My name is Anu Dathan, and I'm the Program Associate with the Illinois Public Interest Research Group. Illinois PIRG is a non-profit public interest organization, and as such, we support campaign finance reform that will help level the playing field for voters and candidates by reducing the role of big money in elections.

UNLIMITED SPENDING

As the first presidential campaign cycle since the Supreme Court's *Citizens United* ruling, the 2012 election lived up to its hype by breaking previous records for total spending and exaggerating the electoral power of wealthy individuals and special interests.

For example, Illinois PIRG found in our recent report, *Billion-Dollar Democracy*, that nearly two-thirds of all outside spending in the Illinois Congressional and state legislative races came from Super PAC donors. At the federal level, the presidential candidates raised $313 million from all of their 3.7 million small donors. That amount was matched by the top 32 Super PAC donors giving an average of $9.9 million each[1]. The fact that a handful of megadonors can match over 3.7 million average citizens giving what they can undermines the principle that every citizen should have an equal say in our democratic process.

The moneyed special interests are translating their greater electoral role into increased influence over public policy in two basic ways: First, by helping elect candidates who share their values and second, by limiting the range of acceptable policy positions which candidates may take if they want to remain competitive—effectively shaping the agenda in Springfield and in Washington. Super PACs received 86% of their funds from elite, wealthy donors and businesses last year. Allowing special interests to fund attack ads on candidates distorts our democracy in an attempt to ensure that our elected officials put powerful special interests and out-of-state

[1] Bowie Blair, *Billion-Dollar Democracy*, Illinois PIRG (2013)

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interests above the common good. This is especially true in Illinois, where 89% of outside spending came from wealthy donors outside the state. New research shows that because special interests and the wealthy hold different policy priorities than does the general public, their dominance of elections actually skews public policy. Those who try to win or keep public office are caught in a never-ending arms race, forced to raise more and more money to keep up with both opposing candidates and a potential onslaught of outside spending fueled by any special interest.

TRANSPARENCY

Another troubling trend in 2012 is that of "dark money". Due to a lack of disclosure requirements, we are seeing floods of money from unknown sources.

Some donors and business interests chose to hide their identities behind for-profit corporations seemingly set up for this exact purpose. In 2012, several large donations to Super PACs, including the single largest business contribution to a Super PAC, came from shell corporations that sprang up overnight, funded by unknown donors. They are corporations with no previous reputation or known business activities and from which we will likely never hear again[2].

Illinois PIRG's recent report found that a full third of funds spent by outside groups on Illinois state House races came from "dark money." So for all of the state House campaigning that Illinoisans saw that were not sponsored by a candidate or a political party, a third of the time it was not possible for viewers to determine who financed the communications intended to influence their votes. The situation is even more drastic nationally, where 58% of outside spending on the presidential race's TV ads came from dark money.

A new Illinois PIRG and Center for Media and Democracy report, *Elections Confidential*, found that donations from entities identified as shell corporations accounted for nearly a fifth of all business contributions to Super PACs in the 2012 election cycle, a total of nearly $17 million.

POLICY RECOMMENDATIONS

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[2] Bowie, Blair, *Elections Confidential*, Illinois PIRG (2013)

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It doesn't have to be this way. There are various policies that would lead to a campaign finance system addressing the undue influence of unregulated outside spending in our elections and empowers average citizens.

1. *Amend the Constitution to clarify that the people have the right to democratically enact content-neutral limitations on campaign contributions and spending by individuals and corporations in order to promote political equality.* The only complete solution to the problems presented by unlimited outside spending is to amend the U.S. Constitution to clarify that the First Amendment was never intended as a tool for corporations and the wealthy to dominate the political arena. Illinois' legislature should join 11 other states and pass a resolution calling on Congress to send to the states such an amendment to ratify.

2. *Match small contributions with public resources to encourage small donor participation and provide candidates with additional clean resources.* Candidates who demonstrate their ability to mobilize support in their districts should receive a public grant to kick-start their campaign, and be eligible for funds to match further small donor fundraising. This would both encourage average citizens to participate in campaigns and enable candidates without access to big-money networks to run viable campaigns for federal office. While Congress should enact this policy at the federal level, the state of Illinois should also pass matching systems to enhance elections under their jurisdictions.

3. *Encourage small political contributions by providing vouchers or tax credits.* Encouraging millions of average-earning Illinoisans to make small contributions can help counterbalance the influence of the wealthy few. Several states provide refunds or tax credits for small political contributions, and the federal tax code did the same between 1972 and 1986.[3] Past experience suggests that a well-designed program can motivate more small donors to participate.[4] An ideal program would provide vouchers to citizens up front, eliminating disposable income as a factor in political giving.[5]

4. *Protect the interests of shareholders whose funds may currently be used for political expenditures without their knowledge or approval.* The Illinois Legislature should require for-profit

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[3] Thomas Cmar, *Towards a Small Donor Democracy: The Past and Future of Incentives for Small Political Contributions*, U.S. PIRG Education Fund (2004).
[4] Id.
[5] *See* Bruce Ackerman and Ian Ayres, VOTING WITH DOLLARS: A NEW PARADIGM FOR CAMPAIGN FINANCE (2002).

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corporations to obtain the approval of their shareholders before making any electoral expenditures, including contributions to other organizations that engage in political activity (such as 501(c)s and Super PACs); and require any for-profit corporation to publicly disclose any contributions to a 501(c)(4) or 501(c)(6) organization that makes an independent expenditure, funds an electioneering communication, or contributes to a Super PAC. If Congress fails to act, Illinois can pass legislation enacting these requirements in their elections.

5. *Expand the "electioneering communications" windows to account for the length of modern campaigns.* To facilitate full disclosure of election-related activity in the modern campaign era, Illinois' elections commission should expand the electioneering communications windows to begin 120 days before the first presidential primary and January 1st of each election year for congressional elections.

6. *Require Super PACs to include basic information about the tax and political committee status of their institutional donors in disclosure filings.* This simple adjustment by Illinois' elections commission would make it far easier for concerned citizens to "follow the money."

These solutions won't be easy to enact. But, the good news is that the American public is squarely on the side of reform.[6] And, thanks to the conspicuously undemocratic role of money in the 2012 elections there is more attention to the problems with our democracy, and energy behind fixing them, now than perhaps at any time since the aftermath of Watergate in the mid-seventies.

Now is the time to finally build a democracy in which the size of a citizen's wallet does not determine the strength of her voice.

Thank you.

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[6] *See e.g. Citizens* Actually *United*, available at http://www.demos.org/publication/citizens-actually-united-bi-partisan-opposition-corporate-political-spending-and-support

BILLION-DOLLAR DEMOCRACY

The Unprecedented Role of Money in the 2012 Elections

by: **BLAIR BOWIE**, U.S. PIRG Education Fund Democracy Advocate
ADAM LIOZ, Counsel at Dēmos

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EXECUTIVE SUMMARY

The first presidential election since *Citizens United* lived up to its hype, with unprecedented outside spending from new sources making headlines.

Dēmos and Illinois PIRG Education Fund analysis of reports from campaigns, parties, and outside spenders to the Federal Election Commission found that our big money system distorts democracy and creates clear winners and losers:

WEALTHY DONORS OVER AVERAGE CITIZENS

Newly minted Super PACs dominated outside spending reported to the FEC, aggregating huge sums from millionaires and billionaires.

- The top 32 Super PAC donors, giving an average of $9.9 million each, matched the $313.0 million that President Obama and Mitt Romney raised from all of their small donors combined—that's at least 3.7 million people giving less than $200.
- Nearly 60% of Super PAC funding came from just 159 donors contributing at least $1 million. More than 93% of the money Super PACs raised came in contributions of at least $10,000—from just 3,318 donors, or the equivalent of 0.0011% of the U.S. population.
- It would take 322,000 average-earning American families giving an equivalent share of their net worth to match the Adelsons' $91.8 million in Super PAC contributions.
- Super PACs accounted for more than 60% of outside spending reported to the FEC.
- For the 2012 cycle, Super PACs received more than 70% of their funds from individuals, and a significant percentage (12%) from for-profit businesses.

Fundraising for candidate campaigns was also dominated by an elite donor class and special interests.

- Candidates for both House and Senate raised the majority of their funds from gifts of $1,000 or more; and 40% of all contributions to Senate candidates came from donors giving at least $2,500, from just 0.02% of the American population.
- In the 2012 election cycle, 83.9% of House candidates and 66.7% of Senate candidates who outspent their general election opponents won their elections.
- Winning House candidates outraised major opponents by 108%, winning Senate candidates by 35%.

SPECIAL INTERESTS OVER THE PUBLIC INTEREST

Super PACs raised a significant portion of their funds from business interests.

- For-profits corporations were the second largest donors to Super PACs accounting for 12% of all contributions.

- Businesses provided a significant portion of the funds for some of the most active super PACs, including 18.0% of Restore Our Future's funds and 52.7% of Freedomworks for America's funds.

Candidates, and especially winning candidates, raised a significant portion of their funds from political action committees (PACs).

- Winners of federal House races raised on average 40% of their funds from PACs versus 19.9% raised by major opponents.

- Winners of Senate races raised on average 15.9% of their funds from PACs versus 8.3% for losers.

INCUMBENTS OVER CHALLENGERS & GRASSROOTS CANDIDATES

- In 2012 95.2% of incumbent senators and 91.2% of incumbent representatives who ran for office won re-election.

- In the 2012 cycle, incumbent representatives outraised major challengers $1,732,000 to $319,000, for an incredible 443% advantage. Senate incumbents outraised major challengers $7.02 million to $1.69 million, for a slightly smaller 316% advantage.

- Challengers depended upon self-financing for more than 20% of their funds, showing that it's important to be wealthy to run against an incumbent in our big-money system.

SECRET SPENDERS OVER VOTERS SEEKING ACCOUNTABILITY

Non-profit groups, which before 2010 were not allowed to directly spend on elections, spent big while hiding the identity of their donors.

- Of outside spending reported to the FEC, 31% was "secret spending," coming from organizations that are not required to disclose the original sources of their funds.

- Much of the spending by these non-profit groups went unreported as it fell outside a certain window of time before the elections. Further analysis shows that dark money groups accounted 58% of funds spent by outside groups on presidential television ads.

Statement by CHANGE Illinois! to the Illinois Campaign Finance Task Force

Public Hearing on Independent Expenditure Political Action Committees

Chicago, Illinois

Delivered by the Honorable Kathy Ryg, former Member of the Illinois House and Secretary and Member of the CHANGE Illinois! Board of Directors

January 17, 2013

On behalf of the CHANGE Illinois! coalition, I thank you for the opportunity to present testimony at this public hearing concerning independent expenditure committees, better known as super PACs.

At your January 10 hearing in Springfield, you heard the Illinois Campaign for Political Reform report that independent expenditures accounted for $1.7 million of spending to influence the outcome of 29 Illinois General Assembly races.

As you know, this kind of unlimited spending was not part of the plan for reforming how elections are conducted in Illinois. CHANGE adheres to the fundamental principle that public officials should represent the voters in their districts and that supersized contributions and money from secret sources carry the potential to compromise the official's responsibility to his or her constituents and open the door to corruption. At the very least, constituents should know who is paying to help elect these officials.

As originally designed in the same legislation that created this Task Force, the state's new campaign contribution limits law allowed independent expenditures by political committees. However, those committees were to be limited in how much they could accept from contributors, and candidates in races featuring large amounts of independent spending still were required to abide by the limits on contributions to their own campaigns.

Since that bill was passed in 2009, federal court decisions have exempted independent expenditure groups from any limitation on how much they can accept, and the limits system was weakened further by the enactment of legislation eliminating limits in elections where spending by an independent committee reaches $250,000 in a statewide race or $100,000 in all other elections.

Now that the court decisions have opened the door to unlimited contributions to super PACs, the state should insist on improved donor information disclosure and improved enforcement of the remainder of the limits law.

(over)

CHANGE Illinois! recommends the following changes to current legislation:

INSIST THAT INDEPENDENT EXPENDITURES ARE INDEPENDENT
First, Illinois should enact legislation that gives the public confidence that independent expenditures really are independent of the political campaigns the super PACs want to see win. Insist on a firewall between candidates and the super PACs. Prohibit them from working together on polling, strategy, and messaging. Prohibit shared office space, consultants and vendors of direct mail, phone banks and the other elements of campaigns. Don't allow paid staff and/or volunteers, who are deeply involved in a candidate's strategy and fundraising, to move from the candidate's campaign to a super PAC.

REQUIRE SUPER PACS TO DISCLOSE CONTRIBUTIONS
Illinois has won high marks for its laws mandating committees disclose the identity of those making significant contributions. Voters deserve to know where a candidate gets his or her money to run for office. However, the emergence of super PACs has clouded the disclosure of the origin of large amounts of money in our political campaigns.

If a super PAC receives a large contribution from an individual, a for-profit corporation or a labor union, the law requires the identity of the donor to be made public in reports to the State Board of Elections. But when a Super PAC receives a large contribution from a non-profit organization, the public is told the non-profit made the contribution, but there is no information as to where the non-profit received its funding.

Non-profits should not be allowed to be pass-through organizations. State law needs to be changed to require that non-profits making large political contributions disclose where they got the money to make the contribution. Don't let interests trying to influence our elections hide their identities behind non-profits.

In addition, super PACs organized under the federal election system now disclose fundraising activity less frequently than state PACs registered with the Illinois State Board of Elections (ISBE). This results in confusion and delayed disclosure. By statute or ISBE rule, all PACs in business in Illinois should disclose on the same schedule.

The super PAC activity in Illinois' 2012 elections was just a prelude of things to come. Super PAC spending will be strong in the 2014 election. Unlike 2012, Illinois will elect a Governor and all statewide officials in 2014. And as soon as an independent expenditure group spends $250,000 to influence the gubernatorial election, the revised limits law will open the door to campaign contributions of any size to candidates for Governor.

Our concern, obviously, is that this absence of limits on contributions will result in a repeat of the George Ryan and Rod Blagojevich scandals. None of us wants to go through that again.

These recommendations – insisting that the unlimited independent expenditure groups really are independent of the candidates and insisting that the public know who is funding these groups – are reasonable improvements that candidates should not fear and that voters would welcome.

Appendix D

Full Text of Public Act 97-0766

AN ACT concerning elections.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Election Code is amended by changing Sections 4-50, 5-50, 6-100, 9-1.8, 9-1.9, 9-1.15, 9-2, 9-3, 9-7, 9-8.5, 9-8.6, 9-10, 9-15, 9-28.5, 16-6, 18A-5, 18A-15, 19-2.1, 19-3, 19A-15, and 24C-12 and by adding Section 1-11 as follows:

(10 ILCS 5/1-11 new)

Sec. 1-11. Public university voting. For the 2012 general election, each appropriate election authority shall, in addition to the early voting conducted at locations otherwise required by law, conduct early voting in a high traffic location on the campus of a public university within the election authority's jurisdiction. For the purposes of this Section, "public university" means the University of Illinois at its campuses in Urbana-Champaign and Springfield, Southern Illinois University at its campuses in Carbondale and Edwardsville, Eastern Illinois University, Illinois State University, Northern Illinois University, and Western Illinois University at its campuses in Macomb and Moline. The voting required by this Section to be conducted on campus must be conducted as otherwise required by Article 19A of this Code. If

an election authority has voting equipment that can accommodate a ballot in every form required in the election authority's jurisdiction, then the election authority shall extend early voting under this Section to any registered voter in the election authority's jurisdiction. However, if the election authority does not have voting equipment that can accommodate a ballot in every form required in the election authority's jurisdiction, then the election authority may limit early voting under this Section to registered voters in precincts where the public university is located and precincts bordering the university. Each public university shall make the space available in a high traffic area for, and cooperate and coordinate with the appropriate election authority in, the implementation of this Section. This Section is repealed on May 31, 2013.

(10 ILCS 5/4-50)

Sec. 4-50. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 3rd ~~7th~~ day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter

registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19.

Within one day after a voter casts a grace period ballot, the election authority shall transmit the voter's name, street address, and precinct, ward, township, and district numbers, as the case may be, to the State Board of Elections, which shall maintain those names and that information in an electronic format on its website, arranged by county and accessible to State and local political committees. The name of each person issued a grace period ballot shall also be placed on the appropriate precinct list of persons to whom absentee and early ballots have been issued, for use as provided in Sections 17-9 and 18-5.

A person who casts a grace period ballot shall not be

permitted to revoke that ballot and vote another ballot with respect to that primary or election. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and counted at precinct polling places. The grace period ballots determined to be valid shall be added to the vote totals for the precincts for which they were cast in the order in which the ballots were opened.

(Source: P.A. 96-441, eff. 1-1-10.)

(10 ILCS 5/5-50)

Sec. 5-50. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 3rd ~~7th~~ day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19.

Within one day after a voter casts a grace period ballot, the election authority shall transmit the voter's name, street address, and precinct, ward, township, and district numbers, as the case may be, to the State Board of Elections, which shall maintain those names and that information in an electronic format on its website, arranged by county and accessible to State and local political committees. The name of each person issued a grace period ballot shall also be placed on the appropriate precinct list of persons to whom absentee and early ballots have been issued, for use as provided in Sections 17-9 and 18-5.

A person who casts a grace period ballot shall not be permitted to revoke that ballot and vote another ballot with respect to that primary or election. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and

counted at precinct polling places. The grace period ballots determined to be valid shall be added to the vote totals for the precincts for which they were cast in the order in which the ballots were opened.

(Source: P.A. 96-441, eff. 1-1-10.)

(10 ILCS 5/6-100)

Sec. 6-100. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 3rd ~~7th~~ day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this

purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19.

Within one day after a voter casts a grace period ballot, the election authority shall transmit the voter's name, street address, and precinct, ward, township, and district numbers, as the case may be, to the State Board of Elections, which shall maintain those names and that information in an electronic format on its website, arranged by county and accessible to State and local political committees. The name of each person issued a grace period ballot shall also be placed on the appropriate precinct list of persons to whom absentee and early ballots have been issued, for use as provided in Sections 17-9 and 18-5.

A person who casts a grace period ballot shall not be permitted to revoke that ballot and vote another ballot with respect to that primary or election. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and counted at precinct polling places. The grace period ballots determined to be valid shall be added to the vote totals for the precincts for which they were cast in the order in which the ballots were opened.

(Source: P.A. 96-441, eff. 1-1-10.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. Political committees.

(a) "Political committee" includes a candidate political committee, a political party committee, a political action committee, ~~and~~ a ballot initiative committee, and an independent expenditure committee.

(b) "Candidate political committee" means the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding $3,000 on behalf of the candidate.

(c) "Political party committee" means the State central committee of a political party, a county central committee of a political party, a legislative caucus committee, or a committee formed by a ward or township committeeman of a political party. For purposes of this Article, a "legislative caucus committee" means a committee established for the purpose of electing candidates to the General Assembly by the person elected President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, or a committee established by 5 or more members of the same caucus of the Senate or 10 or more members of the same caucus of the House of Representatives.

(d) "Political action committee" means any natural person,

trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding $3,000 on behalf of or in opposition to a candidate or candidates for public office. "Political action committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that makes electioneering communications during any 12-month period in an aggregate amount exceeding $3,000 related to any candidate or candidates for public office.

(e) "Ballot initiative committee" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding $3,000 in support of or in opposition to any question of public policy to be submitted to the electors. "Ballot initiative committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications during any 12-month period in an aggregate amount exceeding $3,000 related to any question of public policy to be submitted to the voters.

The $3,000 threshold applies to any contributions or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy, regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body.

(f) "Independent expenditure committee" means any trust, partnership, committee, association, corporation, or other organization or group of persons formed for the exclusive purpose of making independent expenditures during any 12-month period in an aggregate amount exceeding $3,000 in support of or in opposition to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the electors. "Independent expenditure committee" also includes any trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications that are not made in connection, consultation, or concert with or at the request or suggestion of a public official or candidate, a public official's or candidate's designated political committee or campaign, or an agent or agents of the public official, candidate, or political committee or campaign during any 12-month period in an

aggregate amount exceeding $3,000 related to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the voters.

(Source: P.A. 95-963, eff. 1-1-09; 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.9) (from Ch. 46, par. 9-1.9)

Sec. 9-1.9. Election cycle. "Election cycle" means any of the following:

(1) For a candidate political committee organized to support a candidate to be elected at a general primary election or general election, (i) the period beginning January 1 following the general election for the office to which a candidate seeks nomination or election and ending on the day of the general primary election for that office or (ii) the period beginning the day after a general primary election for the office to which the candidate seeks nomination or election and through December 31 following the general election.

(2) Notwithstanding paragraph (1), for a candidate political committee organized to support a candidate for the General Assembly, (i) the period beginning January 1 following a general election and ending on the day of the next general primary election or (ii) the period beginning the day after the general primary election and ending on December 31 following a general election.

(3) For a candidate political committee organized to

support a candidate for a retention election, (i) the period beginning January 1 following the general election at which the candidate was elected through the day the candidate files a declaration of intent to seek retention or (ii) the period beginning the day after the candidate files a declaration of intent to seek retention through December 31 following the retention election.

(4) For a candidate political committee organized to support a candidate to be elected at a consolidated primary election or consolidated election, (i) the period beginning July 1 following a consolidated election and ending on the day of the consolidated primary election or (ii) the period beginning the day after the consolidated primary election and ending on June 30 following a consolidated election.

(5) For a political party committee, political action committee, ~~or~~ ballot initiative committee, <u>or independent expenditure committee,</u> the period beginning on January 1 and ending on December 31 of each calendar year.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.15)

Sec. 9-1.15. Independent expenditure. "Independent expenditure" means any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for

election, election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign.

(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/9-2) (from Ch. 46, par. 9-2)

Sec. 9-2. Political committee designations.

(a) Every political committee shall be designated as a (i) candidate political committee, (ii) political party committee, (iii) political action committee, ~~or~~ (iv) ballot initiative committee, or (v) independent expenditure committee.

(b) Beginning January 1, 2011, no public official or candidate for public office may maintain or establish more than one candidate political committee for each office that public official or candidate holds or is seeking. The name of each candidate political committee shall identify the name of the public official or candidate supported by the candidate political committee. If a candidate establishes separate candidate political committees for each public office, the name of each candidate political committee shall also include the

public office to which the candidate seeks nomination for election, election, or retention. If a candidate establishes one candidate political committee for multiple offices elected at different elections, then the candidate shall designate an election cycle, as defined in Section 9-1.9, for purposes of contribution limitations and reporting requirements set forth in this Article. No political committee, other than a candidate political committee, may include the name of a candidate in its name.

(c) Beginning January 1, 2011, no State central committee of a political party, county central committee of a political party, committee formed by a ward or township committeeman, or committee established for the purpose of electing candidates to the General Assembly may maintain or establish more than one political party committee. The name of the committee must include the name of the political party.

(d) Beginning January 1, 2011, no natural person, trust, partnership, committee, association, corporation, or other organization or group of persons forming a political action committee shall maintain or establish more than one political action committee. The name of a political action committee must include the name of the entity forming the committee. <u>This subsection does not apply to independent expenditure committees.</u>

(e) Beginning January 1, 2011, the name of a ballot initiative committee must include words describing the

question of public policy and whether the group supports or opposes the question.

(f) Every political committee shall designate a chairman and a treasurer. The same person may serve as both chairman and treasurer of any political committee. A candidate who administers his own campaign contributions and expenditures shall be deemed a political committee for purposes of this Article and shall designate himself as chairman, treasurer, or both chairman and treasurer of such political committee. The treasurer of a political committee shall be responsible for keeping the records and filing the statements and reports required by this Article.

(g) No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(h) For purposes of implementing the changes made by this amendatory Act of the 96th General Assembly, every political committee in existence on the effective date of this amendatory Act of the 96th General Assembly shall make the designation required by this Section by December 31, 2010.

(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/9-3) (from Ch. 46, par. 9-3)

Sec. 9-3. Political committee statement of organization.

(a) Every political committee shall file with the State Board of Elections a statement of organization within 10 business days of the creation of such committee, except any political committee created within the 30 days before an election shall file a statement of organization within 2 business days in person, by facsimile transmission, or by electronic mail. Any change in information previously submitted in a statement of organization shall be reported, as required for the original statement of organization by this Section, within 10 days following that change. A political committee that acts as both a state political committee and a local political committee shall file a copy of each statement of organization with the State Board of Elections and the county clerk. The Board shall impose a civil penalty of $50 per business day upon political committees for failing to file or late filing of a statement of organization. Such penalties shall not exceed $5,000, and shall not exceed $10,000 for statewide office political committees. There shall be no fine if the statement is mailed and postmarked at least 72 hours prior to the filing deadline.

In addition to the civil penalties authorized by this Section, the State Board of Elections or any other political committee may apply to the circuit court for a temporary restraining order or a preliminary or permanent injunction against the political committee to cease the expenditure of

funds and to cease operations until the statement of organization is filed.

For the purpose of this Section, "statewide office" means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller.

(b) The statement of organization shall include:

(1) the name and address of the political committee and the designation required by Section 9-2;

(2) the scope, area of activity, party affiliation, and purposes of the political committee;

(3) the name, address, and position of each custodian of the committee's books and accounts;

(4) the name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any;

(5) the name and address of any sponsoring entity;

(6) a statement of what specific disposition of residual fund will be made in the event of the dissolution or termination of the committee;

(7) a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee; and

(8) the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization.

For purposes of this Section, a "sponsoring entity" is (i) any person, organization, corporation, or association that contributes at least 33% of the total funding of the political committee or (ii) any person or other entity that is registered or is required to register under the Lobbyist Registration Act and contributes at least 33% of the total funding of the political committee.

(c) Each statement of organization required to be filed in accordance with this Section shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made and shall contain substantially the following verification:

"VERIFICATION:

I declare that this statement of organization (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete statement of organization as required by Article 9 of the Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of at least $1,001 and up to $5,000.

....

(date of filing) (signature of person making the statement)".

(d) The statement of organization for a ballot initiative committee also shall include a verification signed by the chairperson of the committee that (i) the committee is formed

for the purpose of supporting or opposing a question of public policy, (ii) all contributions and expenditures of the committee will be used for the purpose described in the statement of organization, (iii) the committee may accept unlimited contributions from any source, provided that the ballot initiative committee does not make contributions or expenditures in support of or opposition to a candidate or candidates for nomination for election, election, or retention, and (iv) failure to abide by these requirements shall deem the committee in violation of this Article.

(d-5) The statement of organization for an independent expenditure committee also shall include a verification signed by the chairperson of the committee that (i) the committee is formed for the exclusive purpose of making independent expenditures, (ii) all contributions and expenditures of the committee will be used for the purpose described in the statement of organization, (iii) the committee may accept unlimited contributions from any source, provided that the independent expenditure committee does not make contributions to any candidate political committee, political party committee, or political action committee, and (iv) failure to abide by these requirements shall deem the committee in violation of this Article.

(e) For purposes of implementing the changes made by this amendatory Act of the 96th General Assembly, every political committee in existence on the effective date of this amendatory

Act of the 96th General Assembly shall file the statement required by this Section with the Board by December 31, 2010.

(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/9-7) (from Ch. 46, par. 9-7)

Sec. 9-7. Records and accounts.

(1) Except as provided in subsection (2), the ~~The~~ treasurer of a political committee shall keep a detailed and exact account of-

(a) the total of all contributions made to or for the committee;

(b) the full name and mailing address of every person making a contribution and the date and amount thereof;

(c) the total of all expenditures made by or on behalf of the committee;

(d) the full name and mailing address of every person to whom any expenditure is made, and the date and amount thereof;

(e) proof of payment, stating the particulars, for every expenditure made by or on behalf of the committee.

The treasurer shall preserve all records and accounts required by this section for a period of 2 years.

(2) The treasurer of a political committee shall keep a detailed and exact account of the total amount of contributions made to or for a committee at an event licensed under Section 8.1 of the Raffles Act. For an event licensed under Section

8.1, the treasurer is not required to keep a detailed and exact account of the full name and mailing address of a person who purchases tickets at the event in an amount that does not exceed $150.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-8.5)

Sec. 9-8.5. Limitations on campaign contributions.

(a) It is unlawful for a political committee to accept contributions except as provided in this Section.

(b) During an election cycle, a candidate political committee may not accept contributions with an aggregate value over the following: (i) $5,000 from any individual, (ii) $10,000 from any corporation, labor organization, or association, or (iii) $50,000 from a candidate political committee or political action committee. A candidate political committee may accept contributions in any amount from a political party committee except during an election cycle in which the candidate seeks nomination at a primary election. During an election cycle in which the candidate seeks nomination at a primary election, a candidate political committee may not accept contributions from political party committees with an aggregate value over the following: (i) $200,000 for a candidate political committee established to support a candidate seeking nomination to statewide office, (ii) $125,000 for a candidate political committee established

to support a candidate seeking nomination to the Senate, the Supreme Court or Appellate Court in the First Judicial District, or an office elected by all voters in a county with 1,000,000 or more residents, (iii) $75,000 for a candidate political committee established to support a candidate seeking nomination to the House of Representatives, the Supreme Court or Appellate Court for a Judicial District other than the First Judicial District, an office elected by all voters of a county of fewer than 1,000,000 residents, and municipal and county offices in Cook County other than those elected by all voters of Cook County, and (iv) $50,000 for a candidate political committee established to support the nomination of a candidate to any other office. A candidate political committee established to elect a candidate to the General Assembly may accept contributions from only one legislative caucus committee. A candidate political committee may not accept contributions from a ballot initiative committee <u>or from an independent expenditure committee</u>.

(c) During an election cycle, a political party committee may not accept contributions with an aggregate value over the following: (i) $10,000 from any individual, (ii) $20,000 from any corporation, labor organization, or association, or (iii) $50,000 from a political action committee. A political party committee may accept contributions in any amount from another political party committee or a candidate political committee, except as provided in subsection (c-5). Nothing in this Section

shall limit the amounts that may be transferred between a ~~State~~ political party committee established under subsection (a) of Section 7-8 of this Code and an affiliated federal political committee established under the Federal Election Code by the same political party. A political party committee may not accept contributions from a ballot initiative committee or from an independent expenditure committee. A political party committee established by a legislative caucus may not accept contributions from another political party committee established by a legislative caucus.

(c-5) During the period beginning on the date candidates may begin circulating petitions for a primary election and ending on the day of the primary election, a political party committee may not accept contributions with an aggregate value over $50,000 from a candidate political committee or political party committee. A political party committee may accept contributions in any amount from a candidate political committee or political party committee if the political party committee receiving the contribution filed a statement of nonparticipation in the primary as provided in subsection (c-10). The Task Force on Campaign Finance Reform shall study and make recommendations on the provisions of this subsection to the Governor and General Assembly by September 30, 2012. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(c-10) A political party committee that does not intend to

make contributions to candidates to be nominated at a general primary election or consolidated primary election may file a Statement of Nonparticipation in a Primary Election with the Board. The Statement of Nonparticipation shall include a verification signed by the chairperson and treasurer of the committee that (i) the committee will not make contributions or coordinated expenditures in support of or opposition to a candidate or candidates to be nominated at the general primary election or consolidated primary election (select one) to be held on (insert date), (ii) the political party committee may accept unlimited contributions from candidate political committees and political party committees, provided that the political party committee does not make contributions to a candidate or candidates to be nominated at the primary election, and (iii) failure to abide by these requirements shall deem the political party committee in violation of this Article and subject the committee to a fine of no more than 150% of the total contributions or coordinated expenditures made by the committee in violation of this Article. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(d) During an election cycle, a political action committee may not accept contributions with an aggregate value over the following: (i) $10,000 from any individual, (ii) $20,000 from any corporation, labor organization, political party committee, or association, or (iii) $50,000 from a political

action committee or candidate political committee. A political action committee may not accept contributions from a ballot initiative committee or from an independent expenditure committee.

(e) A ballot initiative committee may accept contributions in any amount from any source, provided that the committee files the document required by Section 9-3 of this Article and files the disclosure reports required by the provisions of this Article.

(e-5) An independent expenditure committee may accept contributions in any amount from any source, provided that the committee files the document required by Section 9-3 of this Article and files the disclosure reports required by the provisions of this Article.

(f) Nothing in this Section shall prohibit a political committee from dividing the proceeds of joint fundraising efforts; provided that no political committee may receive more than the limit from any one contributor, and provided that an independent expenditure committee may not conduct joint fundraising efforts with a candidate political committee or a political party committee.

(g) On January 1 of each odd-numbered year, the State Board of Elections shall adjust the amounts of the contribution limitations established in this Section for inflation as determined by the Consumer Price Index for All Urban Consumers as issued by the United States Department of Labor and rounded

to the nearest $100. The State Board shall publish this information on its official website.

(h) Self-funding candidates. If a public official, a candidate, or the public official's or candidate's immediate family contributes or loans to the public official's or candidate's political committee or to other political committees that transfer funds to the public official's or candidate's political committee or makes independent expenditures for the benefit of the public official's or candidate's campaign during the 12 months prior to an election in an aggregate amount of more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices, then the public official or candidate shall file with the State Board of Elections, within one day, a Notification of Self-funding that shall detail each contribution or loan made by the public official, the candidate, or the public official's or candidate's immediate family. Within 2 business days after the filing of a Notification of Self-funding, the notification shall be posted on the Board's website and the Board shall give official notice of the filing to each candidate for the same office as the public official or candidate making the filing, including the public official or candidate filing the Notification of Self-funding. Upon receiving notice from the Board, all candidates for that office, including the public official or candidate who filed a Notification of Self-funding, shall be permitted to accept contributions in excess of any

contribution limits imposed by subsection (b). For the purposes of this subsection, "immediate family" means the spouse, parent, or child of a public official or candidate.

(h-5) If a natural person or independent expenditure committee makes independent expenditures in support of or in opposition to the campaign of a particular public official or candidate in an aggregate amount of more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices in an election cycle, as reported in a written disclosure filed under subsection (a) of Section 9-8.6 or subsection (e-5) of Section 9-10, then the State Board of Elections shall, within 2 business days after the filing of the disclosure, post the disclosure on the Board's website and give official notice of the disclosure to each candidate for the same office as the public official or candidate for whose benefit the natural person or independent expenditure committee made independent expenditures. Upon receiving notice from the Board, all candidates for that office in that election, including the public official or candidate for whose benefit the natural person or independent expenditure committee made independent expenditures, shall be permitted to accept contributions in excess of any contribution limits imposed by subsection (b). The Campaign Finance Task Force shall submit a report to the Governor and General Assembly no later than February 1, 2013. The report shall examine and make recommendations regarding the provisions in this subsection

including, but not limited to, case law concerning independent expenditures, the manner in which independent expenditures are handled in the other states and at the federal level, independent expenditures made in Illinois during the 2012 general primary and, separately, the 2012 general election, and independent expenditures made at the federal level during the 2012 general election. The Task Force shall conduct at least 2 public hearings regarding independent expenditures.

(i) For the purposes of this Section, a corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association may act as a conduit in facilitating the delivery to a political action committee of contributions made through dues, levies, or similar assessments and the political action committee may report the contributions in the aggregate, provided that: (i) contributions made through ~~the~~ dues, levies, or similar assessments paid by any natural person, corporation, labor organization, or association in a calendar year may not exceed the limits set forth in this Section; ~~and~~ (ii) the corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association facilitating the delivery of contributions maintains a list of natural persons, corporations, labor organizations, and associations that paid the dues, levies, or similar assessments from which the contributions comprising the aggregate amount derive; and

(iii) contributions made through dues, levies, or similar assessments paid by any natural person, corporation, labor organization, or association that exceed $500 in a quarterly reporting period shall be itemized on the committee's quarterly report and may not be reported in the aggregate. A political action committee facilitating the delivery of contributions or receiving contributions shall disclose the amount of contributions made through dues delivered or received and the name of the corporation, labor organization, association, or political action committee delivering the contributions, if applicable. On January 1 of each odd-numbered year, the State Board of Elections shall adjust the amounts of the contribution limitations established in this subsection for inflation as determined by the Consumer Price Index for All Urban Consumers as issued by the United States Department of Labor and rounded to the nearest $100. The State Board shall publish this information on its official website.

(j) A political committee that receives a contribution or transfer in violation of this Section shall dispose of the contribution or transfer by returning the contribution or transfer, or an amount equal to the contribution or transfer, to the contributor or transferor or donating the contribution or transfer, or an amount equal to the contribution or transfer, to a charity. A contribution or transfer received in violation of this Section that is not disposed of as provided in this subsection within 30 ~~15~~ days after the Board sends

notification to the political committee of the excess contribution by certified mail ~~its receipt~~ shall escheat to the General Revenue Fund and the political committee shall be deemed in violation of this Section and subject to a civil penalty not to exceed 150% of the total amount of the contribution.

(k) For the purposes of this Section, "statewide office" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

(l) This Section is repealed if and when the United States Supreme Court invalidates contribution limits on committees formed to assist candidates, political parties, corporations, associations, or labor organizations established by or pursuant to federal law.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-8.6)

Sec. 9-8.6. Independent expenditures.

(a) An independent expenditure is not considered a contribution to a political committee. An expenditure made by a natural person or political committee for an electioneering communication in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's candidate political committee, or the agent or agents of the public official, candidate, or political committee or campaign shall

not be considered an independent expenditure but rather shall be considered a contribution to the public official's or candidate's candidate political committee.

A natural person who makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that natural person supporting or opposing that public official or candidate during any 12-month period, equals an aggregate value of at least $3,000 must file a written disclosure with the State Board of Elections within 2 business days after making any expenditure that results in the natural person meeting or exceeding the $3,000 threshold. A natural person who has made a written disclosure with the State Board of Elections shall have a continuing obligation to report further expenditures in relation to the same election, in $1,000 increments, to the State Board until the conclusion of that election. A natural person who makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that natural person supporting or opposing that public official or candidate during the election cycle, equals an aggregate value of more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices must file a written disclosure with the State Board of Elections within 2 business days after making any expenditure that results in the natural person exceeding the

applicable threshold. Each disclosure must identify the natural person, the public official or candidate supported or opposed, the date, amount, and nature of each independent expenditure, and the natural person's occupation and employer.

(b) Any entity other than a natural person that makes expenditures of any kind in an aggregate amount exceeding $3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee in accordance with this Article.

(c) Every political committee that makes independent expenditures must report all such independent expenditures as required under Section 9-10 of this Article.

(d) In the event that a political committee organized as an independent expenditure committee makes a contribution to any other political committee other than another independent expenditure committee or a ballot initiative committee, the State Board shall assess a fine equal to the amount of any contribution received in the preceding 2 years by the independent expenditure committee that exceeded the limits for a political action committee set forth in subsection (d) of Section 9-8.5.

(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

Sec. 9-10. Disclosure of contributions and expenditures.

(a) The treasurer of every political committee shall file

with the Board reports of campaign contributions and expenditures as required by this Section on forms to be prescribed or approved by the Board.

(b) Every political committee shall file quarterly reports of campaign contributions, expenditures, and independent expenditures. The reports shall cover the period January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year. A political committee shall file quarterly reports no later than the 15th day of the month following each period. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed $5,000 for failure to file a report required by this subsection. The fine, however, shall not exceed $1,000 for a first violation if the committee files less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. When considering the amount of the fine to be imposed, the Board shall consider whether the violation was committed inadvertently, negligently, knowingly, or intentionally and any past violations of this Section.

(c) A political committee shall file a report of any contribution of $1,000 or more electronically with the Board within 5 business days after receipt of the contribution,

except that the report shall be filed within 2 business days after receipt if (i) the contribution is received 30 or fewer days before the date of an election and (ii) the political committee supports or opposes a candidate or public question on the ballot at that election or makes expenditures in excess of $500 on behalf of or in opposition to a candidate, candidates, a public question, or public questions on the ballot at that election. The State Board shall allow filings of reports of contributions of $1,000 or more by political committees that are not required to file electronically to be made by facsimile transmission. The Board shall assess a civil penalty for failure to file a report required by this subsection. Failure to report each contribution is a separate violation of this subsection. The Board shall impose fines for willful or wanton violations of this subsection (c) not to exceed 150% of the total amount of the contributions that were untimely reported, but in no case shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed for willful or wanton violations, the Board shall consider the number of days the contribution was reported late and past violations of this Section and Section 9-3. The Board may impose a fine for negligent or inadvertent violations of this subsection not to exceed 50% of the total amount of the contributions that were untimely reported, or the Board may waive the fine. When considering whether to impose a fine and the amount of the

fine, the Board shall consider the following factors: (1) whether the political committee made an attempt to disclose the contribution and any attempts made to correct the violation, (2) whether the violation is attributed to a clerical or computer error, (3) the amount of the contribution, (4) whether the violation arose from a discrepancy between the date the contribution was reported transferred by a political committee and the date the contribution was received by a political committee, (5) the number of days the contribution was reported late, and (6) past violations of this Section and Section 9-3 by the political committee.

(d) For the purpose of this Section, a contribution is considered received on the date (i) a monetary contribution was deposited in a bank, financial institution, or other repository of funds for the committee, (ii) the date a committee receives notice a monetary contribution was deposited by an entity used to process financial transactions by credit card or other entity used for processing a monetary contribution that was deposited in a bank, financial institution, or other repository of funds for the committee, or (iii) the public official, candidate, or political committee receives the notification of contribution of goods or services as required under subsection (b) of Section 9-6.

(e) A political committee that makes independent expenditures of $1,000 or more during the period 30 days or fewer before an election shall electronically file a report

with the Board within 5 business days after making the independent expenditure. The report shall contain the information required in Section 9-11(c) of this Article.

(e-5) An independent expenditure committee that makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that independent expenditure committee supporting or opposing that public official or candidate during the election cycle, equals an aggregate value of more than (i) $250,000 for statewide office or (ii) $100,000 for all other elective offices must file a written disclosure with the State Board of Elections within 2 business days after making any expenditure that results in the independent expenditure committee exceeding the applicable threshold. The Board shall assess a civil penalty against an independent expenditure committee for failure to file the disclosure required by this subsection not to exceed (i) $500 for an initial failure to file the required disclosure and (ii) $1,000 for each subsequent failure to file the required disclosure.

(f) A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.

(Source: P.A. 95-6, eff. 6-20-07; 95-957, eff. 1-1-09; 96-832, eff. 1-1-11.)

(10 ILCS 5/9-15) (from Ch. 46, par. 9-15)

Sec. 9-15. It shall be the duty of the Board-

(1) to develop prescribed forms for filing statements of organization and required reports;

(2) to prepare, publish, and furnish to the appropriate persons a manual of instructions setting forth recommended uniform methods of bookkeeping and reporting under this Article;

(3) to prescribe suitable rules and regulations to carry out the provisions of this Article. Such rules and regulations shall be published and made available to the public;

(4) to send by first class mail, after the general primary election in even numbered years, to the chairman of each regularly constituted State central committee, county central committee and, in counties with a population of more than 3,000,000, to the committeemen of each township and ward organization of each political party notice of their obligations under this Article, along with a form for filing the statement of organization;

(5) to promptly make all reports and statements filed under this Article available for public inspection and copying no later than 2 business days after their receipt and to permit copying of any such report or statement at the expense of the person requesting the copy;

(6) to develop a filing, coding, and cross-indexing

system consistent with the purposes of this Article;

(7) to compile and maintain a list of all statements or parts of statements pertaining to each candidate;

(8) to prepare and publish such reports as the Board may deem appropriate; ~~and~~

(9) to annually notify each political committee that has filed a statement of organization with the Board of the filing dates for each quarterly report, provided that such notification shall be made by first-class mail unless the political committee opts to receive notification electronically via email; and ~~.~~

(10) to promptly send, by first class mail directed only to the officers of a political committee, and by certified mail to the address of the political committee, written notice of any fine or penalty assessed or imposed against the political committee under this Article.

(Source: P.A. 96-1263, eff. 1-1-11.)

(10 ILCS 5/9-28.5)

Sec. 9-28.5. Injunctive relief for electioneering communications.

(a) Whenever the Attorney General, or a State's Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as

defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an action in the name of the People of the State of Illinois or, in the case of a State's Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(b) Any political committee that believes any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit court against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(c) Whenever the Attorney General, or a State's Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is engaging in independent expenditures, as defined in this Article, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an

action in the name of the People of the State of Illinois or, in the case of a State's Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making of such expenditures until the registration and disclosure requirements have been met.

(d) Any political committee that believes any person, as defined in Section 9-1.6, is engaging in independent expenditures, as defined in this Article, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit court against such person or persons to restrain by preliminary or permanent injunction the making of independent expenditures until the registration and disclosure requirements have been met.

(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/16-6) (from Ch. 46, par. 16-6)

Sec. 16-6. Whenever one or more proposals for amendment of the constitution or the calling of a constitutional convention or any combination thereof is or are to be voted upon by the people, the proposition or propositions for the adoption or rejection of such amendment or amendments or convention shall be submitted upon a ballot separate from the "Official Ballot" containing the names of candidates for State and other offices to be voted at such election. Such separate ballot shall be printed upon paper of a distinctly blue color and shall, as near as may be practicable, be of uniform size and blue color,

but any variation in the size of such ballots or in the tincture of blue employed shall not affect or impair the validity thereof. Preceding each proposal to amend the constitution shall be printed the brief explanation of the amendment, prepared by the General Assembly, or in the case of a proposed amendment initiated by petition pursuant to Section 3 of Article XIV of the Constitution of the State of Illinois by the principal proponents of the amendment as approved by the Attorney General, and immediately below the explanation, the proposition shall be printed in substantially the following form:

YES For the proposed amendment
---------- to Article _____ (or Section
NO _____ of Article _____) of
the Constitution.

In the case of a proposition for the calling of a constitutional convention, such proposition shall be printed in substantially the following form:

YES For the calling
---------- of a Constitutional
NO Convention.

On the back or outside of the ballot so as to appear when

folded, shall be printed the words "CONSTITUTION BALLOT", followed by the designation of the polling place for which the ballot is prepared, the date of the election and a facsimile of the signature of the clerk or other officer who has caused the ballots to be printed. Immediately above the words "CONSTITUTION BALLOT" in the case of a proposition for the calling of a constitutional convention or a proposition to amend the Constitution the following legend shall be printed in bold face type:

"NOTICE

THE FAILURE TO VOTE THIS BALLOT MAY BE ~~IS~~ THE EQUIVALENT OF A NEGATIVE VOTE, BECAUSE A CONVENTION SHALL BE CALLED OR THE AMENDMENT SHALL BECOME EFFECTIVE IF APPROVED BY EITHER THREE-FIFTHS OF THOSE VOTING ON THE QUESTION OR A MAJORITY OF THOSE VOTING IN THE ELECTION. (THIS IS NOT TO BE CONSTRUED AS A DIRECTION THAT YOUR VOTE IS REQUIRED TO BE CAST EITHER IN FAVOR OF OR IN OPPOSITION TO THE PROPOSITION HEREIN CONTAINED.)

WHETHER YOU VOTE THIS BALLOT OR NOT YOU MUST RETURN IT TO THE ELECTION JUDGE WHEN YOU LEAVE THE VOTING BOOTH".

~~Immediately above the words "CONSTITUTION BALLOT" in the case of a proposition to amend the Constitution the following legend shall be printed in bold face type:~~

~~"NOTICE~~

~~WHETHER YOU VOTE THIS BALLOT OR NOT YOU MUST RETURN IT TO THE ELECTION JUDGE WHEN YOU LEAVE THE VOTING BOOTH."~~

If a proposition for the calling of a constitutional

convention is submitted at the same election as one or more propositions to amend the constitution, the proposition for the calling of a constitutional convention shall be printed at the top of the ballot. In such case, the back or outside of the ballot shall be printed the same as if it were a proposal solely to amend the constitution.

Where voting machines or electronic voting systems are used, the provisions of this Section may be modified as required or authorized by Article 24 or Article 24A, whichever is applicable.

(Source: P.A. 81-163.)

(10 ILCS 5/18A-5)

Sec. 18A-5. Provisional voting; general provisions.

(a) A person who claims to be a registered voter is entitled to cast a provisional ballot under the following circumstances:

(1) The person's name does not appear on the official list of eligible voters for the precinct in which the person seeks to vote. The official list is the centralized statewide voter registration list established and maintained in accordance with Section 1A-25;

(2) The person's voting status has been challenged by an election judge, a pollwatcher, or any legal voter and that challenge has been sustained by a majority of the election judges;

(3) A federal or State court order extends the time for closing the polls beyond the time period established by State law and the person votes during the extended time period; ~~or~~

(4) The voter registered to vote by mail and is required by law to present identification when voting either in person or by absentee ballot, but fails to do so; ~~.~~

(5) The voter's name appears on the list of voters who voted during the early voting period, but the voter claims not to have voted during the early voting period; or

(6) The voter received an absentee ballot but did not return the absentee ballot to the election authority.

(b) The procedure for obtaining and casting a provisional ballot at the polling place shall be as follows:

(1) After first verifying through an examination of the precinct register that the person's address is within the precinct boundaries, an election judge at the polling place shall notify a person who is entitled to cast a provisional ballot pursuant to subsection (a) that he or she may cast a provisional ballot in that election. An election judge must accept any information provided by a person who casts a provisional ballot that the person believes supports his or her claim that he or she is a duly registered voter and qualified to vote in the election. However, if the person's residence address is outside the precinct boundaries, the

election judge shall inform the person of that fact, give the person the appropriate telephone number of the election authority in order to locate the polling place assigned to serve that address, and instruct the person to go to the proper polling place to vote.

(2) The person shall execute a written form provided by the election judge that shall state or contain all of the following that is available:

(i) an affidavit stating the following:

State of Illinois, County of ....., Township ....., Precinct ....., Ward ....., I, ..., do solemnly swear (or affirm) that: I am a citizen of the United States; I am 18 years of age or older; I have resided in this State and in this precinct for 30 days preceding this election; I have not voted in this election; I am a duly registered voter in every respect; and I am eligible to vote in this election. Signature ..... Printed Name of Voter ..... Printed Residence Address of Voter ..... City ..... State .... Zip Code ..... Telephone Number ..... Date of Birth ..... and Illinois Driver's License Number ..... or Last 4 digits of Social Security Number ..... or State Identification Card Number issued to you by the Illinois Secretary of State.....

(ii) A box for the election judge to check one of the 6

~~3~~ reasons why the person was given a provisional ballot under subsection (a) of Section 18A-5.

(iii) An area for the election judge to affix his or her signature and to set forth any facts that support or oppose the allegation that the person is not qualified to vote in the precinct in which the person is seeking to vote.

The written affidavit form described in this subsection (b)(2) must be printed on a multi-part form prescribed by the county clerk or board of election commissioners, as the case may be.

(3) After the person executes the portion of the written affidavit described in subsection (b)(2)(i) of this Section, the election judge shall complete the portion of the written affidavit described in subsection (b)(2)(iii) and (b)(2)(iv).

(4) The election judge shall give a copy of the completed written affidavit to the person. The election judge shall place the original written affidavit in a self-adhesive clear plastic packing list envelope that must be attached to a separate envelope marked as a "provisional ballot envelope". The election judge shall also place any information provided by the person who casts a provisional ballot in the clear plastic packing list envelope. Each county clerk or board of election commissioners, as the case may be, must design, obtain or procure self-adhesive clear plastic packing list envelopes and provisional ballot envelopes that are suitable for

implementing this subsection (b)(4) of this Section.

(5) The election judge shall provide the person with a provisional ballot, written instructions for casting a provisional ballot, and the provisional ballot envelope with the clear plastic packing list envelope affixed to it, which contains the person's original written affidavit and, if any, information provided by the provisional voter to support his or her claim that he or she is a duly registered voter. An election judge must also give the person written information that states that any person who casts a provisional ballot shall be able to ascertain, pursuant to guidelines established by the State Board of Elections, whether the provisional vote was counted in the official canvass of votes for that election and, if the provisional vote was not counted, the reason that the vote was not counted.

(6) After the person has completed marking his or her provisional ballot, he or she shall place the marked ballot inside of the provisional ballot envelope, close and seal the envelope, and return the envelope to an election judge, who shall then deposit the sealed provisional ballot envelope into a securable container separately identified and utilized for containing sealed provisional ballot envelopes. Ballots that are provisional because they are cast after 7:00 p.m. by court order shall be kept separate from other provisional ballots. Upon the closing of the polls, the securable container shall be sealed with filament tape provided for that purpose, which

shall be wrapped around the box lengthwise and crosswise, at least twice each way, and each of the election judges shall sign the seal.

(c) Instead of the affidavit form described in subsection (b), the county clerk or board of election commissioners, as the case may be, may design and use a multi-part affidavit form that is imprinted upon or attached to the provisional ballot envelope described in subsection (b). If a county clerk or board of election commissioners elects to design and use its own multi-part affidavit form, then the county clerk or board of election commissioners shall establish a mechanism for accepting any information the provisional voter has supplied to the election judge to support his or her claim that he or she is a duly registered voter. In all other respects, a county clerk or board of election commissioners shall establish procedures consistent with subsection (b).

(d) The county clerk or board of election commissioners, as the case may be, shall use the completed affidavit form described in subsection (b) to update the person's voter registration information in the State voter registration database and voter registration database of the county clerk or board of election commissioners, as the case may be. If a person is later determined not to be a registered voter based on Section 18A-15 of this Code, then the affidavit shall be processed by the county clerk or board of election commissioners, as the case may be, as a voter registration

application.

(Source: P.A. 93-574, eff. 8-21-03; 93-1071, eff. 1-18-05; 94-645, eff. 8-22-05.)

(10 ILCS 5/18A-15)

Sec. 18A-15. Validating and counting provisional ballots.

(a) The county clerk or board of election commissioners shall complete the validation and counting of provisional ballots within 14 calendar days of the day of the election. The county clerk or board of election commissioners shall have 7 calendar days from the completion of the validation and counting of provisional ballots to conduct its final canvass. The State Board of Elections shall complete within 31 calendar days of the election or sooner if all the returns are received, its final canvass of the vote for all public offices.

(b) If a county clerk or board of election commissioners determines that all of the following apply, then a provisional ballot is valid and shall be counted as a vote:

(1) The provisional voter cast the provisional ballot in the correct precinct based on the address provided by the provisional voter. The provisional voter's affidavit shall serve as a change of address request by that voter for registration purposes for the next ensuing election if it bears an address different from that in the records of the election authority;

(2) The affidavit executed by the provisional voter

pursuant to subsection (b)(2) of Section 18A-5 contains, at a minimum, the provisional voter's first and last name, house number and street name, and signature or mark; ~~and~~

(3) the provisional voter is a registered voter based on information available to the county clerk or board of election commissioners provided by or obtained from any of the following:

i. the provisional voter;

ii. an election judge;

iii. the statewide voter registration database maintained by the State Board of Elections;

iv. the records of the county clerk or board of election commissioners' database; or

v. the records of the Secretary of State; and ~~.~~

(4) For a provisional ballot cast under item (6) of subsection (a) of Section 18A-5, the voter did not vote by absentee ballot in the election at which the provisional ballot was cast.

(c) With respect to subsection (b)(3) of this Section, the county clerk or board of election commissioners shall investigate and record whether or not the specified information is available from each of the 5 identified sources. If the information is available from one or more of the identified sources, then the county clerk or board of election commissioners shall seek to obtain the information from each of those sources until satisfied, with information from at least

one of those sources, that the provisional voter is registered and entitled to vote. The county clerk or board of election commissioners shall use any information it obtains as the basis for determining the voter registration status of the provisional voter. If a conflict exists among the information available to the county clerk or board of election commissioners as to the registration status of the provisional voter, then the county clerk or board of election commissioners shall make a determination based on the totality of the circumstances. In a case where the above information equally supports or opposes the registration status of the voter, the county clerk or board of election commissioners shall decide in favor of the provisional voter as being duly registered to vote. If the statewide voter registration database maintained by the State Board of Elections indicates that the provisional voter is registered to vote, but the county clerk's or board of election commissioners' voter registration database indicates that the provisional voter is not registered to vote, then the information found in the statewide voter registration database shall control the matter and the provisional voter shall be deemed to be registered to vote. If the records of the county clerk or board of election commissioners indicates that the provisional voter is registered to vote, but the statewide voter registration database maintained by the State Board of Elections indicates that the provisional voter is not registered to vote, then the information found in the records

of the county clerk or board of election commissioners shall control the matter and the provisional voter shall be deemed to be registered to vote. If the provisional voter's signature on his or her provisional ballot request varies from the signature on an otherwise valid registration application solely because of the substitution of initials for the first or middle name, the election authority may not reject the provisional ballot.

(d) In validating the registration status of a person casting a provisional ballot, the county clerk or board of election commissioners shall not require a provisional voter to complete any form other than the affidavit executed by the provisional voter under subsection (b)(2) of Section 18A-5. In addition, the county clerk or board of election commissioners shall not require all provisional voters or any particular class or group of provisional voters to appear personally before the county clerk or board of election commissioners or as a matter of policy require provisional voters to submit additional information to verify or otherwise support the information already submitted by the provisional voter. The provisional voter may, within 2 calendar days after the election, submit additional information to the county clerk or board of election commissioners. This information must be received by the county clerk or board of election commissioners within the 2-calendar-day period.

(e) If the county clerk or board of election commissioners determines that subsection (b)(1), (b)(2), or (b)(3) does not

apply, then the provisional ballot is not valid and may not be counted. The provisional ballot envelope containing the ballot cast by the provisional voter may not be opened. The county clerk or board of election commissioners shall write on the provisional ballot envelope the following: "Provisional ballot determined invalid.".

(f) If the county clerk or board of election commissioners determines that a provisional ballot is valid under this Section, then the provisional ballot envelope shall be opened. The outside of each provisional ballot envelope shall also be marked to identify the precinct and the date of the election.

(g) Provisional ballots determined to be valid shall be counted at the election authority's central ballot counting location and shall not be counted in precincts. The provisional ballots determined to be valid shall be added to the vote totals for the precincts from which they were cast in the order in which the ballots were opened. The validation and counting of provisional ballots shall be subject to the provisions of this Code that apply to pollwatchers. If the provisional ballots are a ballot of a punch card voting system, then the provisional ballot shall be counted in a manner consistent with Article 24A. If the provisional ballots are a ballot of optical scan or other type of approved electronic voting system, then the provisional ballots shall be counted in a manner consistent with Article 24B.

(h) As soon as the ballots have been counted, the election

judges or election officials shall, in the presence of the county clerk or board of election commissioners, place each of the following items in a separate envelope or bag: (1) all provisional ballots, voted or spoiled; (2) all provisional ballot envelopes of provisional ballots voted or spoiled; and (3) all executed affidavits of the provisional ballots voted or spoiled. All provisional ballot envelopes for provisional voters who have been determined not to be registered to vote shall remain sealed. The county clerk or board of election commissioners shall treat the provisional ballot envelope containing the written affidavit as a voter registration application for that person for the next election and process that application. The election judges or election officials shall then securely seal each envelope or bag, initial the envelope or bag, and plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast. The election judges or election officials shall then place each sealed envelope or bag into a box, secure and seal it in the same manner as described in item (6) of subsection (b) of Section 18A-5. Each election judge or election official shall take and subscribe an oath before the county clerk or board of election commissioners that the election judge or election official securely kept the ballots and papers in the box, did not permit any person to open the box or otherwise touch or tamper with the ballots and papers in the box, and has no knowledge of any other person opening the

box. For purposes of this Section, the term "election official" means the county clerk, a member of the board of election commissioners, as the case may be, and their respective employees.

(Source: P.A. 93-574, eff. 8-21-03; 94-645, eff. 8-22-05; 94-1000, eff. 7-3-06.)

(10 ILCS 5/19-2.1) (from Ch. 46, par. 19-2.1)

Sec. 19-2.1. At the consolidated primary, general primary, consolidated, and general elections, electors entitled to vote by absentee ballot under the provisions of Section 19-1 may vote in person at the office of the municipal clerk, if the elector is a resident of a municipality not having a board of election commissioners, or at the office of the township clerk or, in counties not under township organization, at the office of the road district clerk if the elector is not a resident of a municipality; provided, in each case that the municipal, township or road district clerk, as the case may be, is authorized to conduct in-person absentee voting pursuant to this Section. Absentee voting in such municipal and township clerk's offices under this Section shall be conducted from the 22nd day through the day before the election.

Municipal and township clerks (or road district clerks) who have regularly scheduled working hours at regularly designated offices other than a place of residence and whose offices are open for business during the same hours as the office of the

election authority shall conduct in-person absentee voting for said elections. Municipal and township clerks (or road district clerks) who have no regularly scheduled working hours but who have regularly designated offices other than a place of residence shall conduct in-person absentee voting for said elections during the hours of 8:30 a.m. to 4:30 p.m. or 9:00 a.m. to 5:00 p.m., weekdays, and 9:00 a.m. to 12:00 noon on Saturdays, but not during such hours as the office of the election authority is closed, unless the clerk files a written waiver with the election authority not later than July 1 of each year stating that he or she is unable to conduct such voting and the reasons therefor. Such clerks who conduct in-person absentee voting may extend their hours for that purpose to include any hours in which the election authority's office is open. Municipal and township clerks (or road district clerks) who have no regularly scheduled office hours and no regularly designated offices other than a place of residence may not conduct in-person absentee voting for said elections. The election authority may devise alternative methods for in-person absentee voting before said elections for those precincts located within the territorial area of a municipality or township (or road district) wherein the clerk of such municipality or township (or road district) has waived or is not entitled to conduct such voting. In addition, electors may vote by absentee ballot under the provisions of Section 19-1 at the office of the election authority having jurisdiction over

their residence. Unless specifically authorized by the election authority, municipal, township, and road district clerks shall not conduct in-person absentee voting. No less than 45 days before the date of an election, the election authority shall notify the municipal, township, and road district clerks within its jurisdiction if they are to conduct in-person absentee voting. Election authorities, however, may conduct in-person absentee voting in one or more designated appropriate public buildings from the fourth day before the election through the day before the election.

In conducting in-person absentee voting under this Section, the respective clerks shall be required to verify the signature of the absentee voter by comparison with the signature on the official registration record card. The clerk also shall reasonably ascertain the identity of such applicant, shall verify that each such applicant is a registered voter, and shall verify the precinct in which he or she is registered and the proper ballots of the political subdivisions in which the applicant resides and is entitled to vote, prior to providing any absentee ballot to such applicant. The clerk shall verify the applicant's registration and from the most recent poll list provided by the county clerk, and if the applicant is not listed on that poll list then by telephoning the office of the county clerk.

Absentee voting procedures in the office of the municipal, township and road district clerks shall be subject to all of

the applicable provisions of this Article 19. Pollwatchers may be appointed to observe in-person absentee voting procedures and view all reasonably requested records relating to the conduct of the election, provided the secrecy of the ballot is not impinged, at the office of the municipal, township or road district clerks' offices where such absentee voting is conducted. Such pollwatchers shall qualify and be appointed in the same manner as provided in Sections 7-34 and 17-23, except each candidate, political party or organization of citizens may appoint only one pollwatcher for each location where in-person absentee voting is conducted. Pollwatchers must be registered to vote in Illinois and possess valid pollwatcher credentials. All requirements in this Article applicable to election authorities shall apply to the respective local clerks, except where inconsistent with this Section.

The sealed absentee ballots in their carrier envelope shall be delivered by the respective clerks, or by the election authority on behalf of a clerk if the clerk and the election authority agree, to the election authority's central ballot counting location before the close of the polls on the day of the general primary, consolidated primary, consolidated, or general election.

Not more than 23 days before the general and consolidated elections, the county clerk shall make available to those municipal, township and road district clerks conducting in-person absentee voting within such county, a sufficient

number of applications, absentee ballots, envelopes, and printed voting instruction slips for use by absentee voters in the offices of such clerks. The respective clerks shall receipt for all ballots received, shall return all unused or spoiled ballots to the county clerk on the day of the election and shall strictly account for all ballots received.

The ballots delivered to the respective clerks shall include absentee ballots for each precinct in the municipality, township or road district, or shall include such separate ballots for each political subdivision conducting an election of officers or a referendum on that election day as will permit any resident of the municipality, township or road district to vote absentee in the office of the proper clerk.

The clerks of all municipalities, townships and road districts may distribute applications for absentee ballot for the use of voters who wish to mail such applications to the appropriate election authority. Any person may produce, reproduce, distribute, or return to an election authority the application for absentee ballot. Upon receipt, the appropriate election authority shall accept and promptly process any application for absentee ballot.

(Source: P.A. 96-1008, eff. 7-6-10.)

(10 ILCS 5/19-3) (from Ch. 46, par. 19-3)

Sec. 19-3. The application for absentee ballot shall be substantially in the following form:

APPLICATION FOR ABSENTEE BALLOT

To be voted at the .... election in the County of .... and State of Illinois, in the .... precinct of the (1) *township of .... (2) *City of .... or (3) *.... ward in the City of ....

I state that I am a resident of the .... precinct of the (1) *township of .... (2) *City of .... or (3) *.... ward in the city of .... residing at .... in such city or town in the county of .... and State of Illinois; that I have lived at such address for .... month(s) last past; that I am lawfully entitled to vote in such precinct at the .... election to be held therein on ....; and that I wish to vote by absentee ballot.

I hereby make application for an official ballot or ballots to be voted by me at such election, and I agree that I shall return such ballot or ballots to the official issuing the same prior to the closing of the polls on the date of the election or, if returned by mail, postmarked no later than midnight preceding election day, for counting no later than during the period for counting provisional ballots, the last day of which is the 14th day following election day.

<u>I understand that this application is made for an official absentee ballot or ballots to be voted by me at the election specified in this application and that I must submit a separate application for an official absentee ballot or ballots to be voted by me at any subsequent election.</u>

Under penalties as provided by law pursuant to Section

29-10 of The Election Code, the undersigned certifies that the statements set forth in this application are true and correct.

....

*fill in either (1), (2) or (3).

Post office address to which ballot is mailed:

.....

However, if application is made for a primary election ballot, such application shall require the applicant to designate the name of the political party with which the applicant is affiliated.

Any person may produce, reproduce, distribute, or return to an election authority the application for absentee ballot. Upon receipt, the appropriate election authority shall accept and promptly process any application for absentee ballot submitted in a form substantially similar to that required by this Section, including any substantially similar production or reproduction generated by the applicant.

(Source: P.A. 95-440, eff. 8-27-07; 96-312, eff. 1-1-10; 96-553, eff. 8-17-09; 96-1000, eff. 7-2-10; 96-1008, eff. 7-6-10.)

(10 ILCS 5/19A-15)

Sec. 19A-15. Period for early voting; hours.

(a) The period for early voting by personal appearance begins the 15th ~~22nd~~ day preceding a general primary, consolidated primary, consolidated, or general election and

extends through the 3rd ~~5th~~ day before election day.

(b) A permanent polling place for early voting must remain open during the hours of 8:30 a.m. to 4:30 p.m., or 9:00 a.m. to 5:00 p.m., on weekdays and 9:00 a.m. to 12:00 p.m. on Saturdays, Sundays, and holidays; except that, in addition to the hours required by this subsection, a permanent early voting polling place designated by an election authority under subsection (c) of Section 19A-10 must remain open for a total of at least 8 hours on any holiday during the early voting period and a total of at least 14 hours on the final weekend during the early voting period.

(c) Notwithstanding subsections (a) and (b), an election authority may close an early voting polling place if the building in which the polling place is located has been closed by the State or unit of local government in response to a severe weather emergency. In the event of a closure, the election authority shall conduct early voting on the 2nd day before election day from 8:30 a.m. to 4:30 p.m. or 9:00 a.m. to 5:00 p.m. The election authority shall notify the State Board of Elections of any closure and shall make reasonable efforts to provide notice to the public of the extended early voting period.

(Source: P.A. 96-637, eff. 1-1-10; 97-81, eff. 7-5-11.)

(10 ILCS 5/24C-12)

Sec. 24C-12. Procedures for Counting and Tallying of

Ballots. In an election jurisdiction where a Direct Recording Electronic Voting System is used, the following procedures for counting and tallying the ballots shall apply:

Before the opening of the polls, the judges of elections shall assemble the voting equipment and devices and turn the equipment on. The judges shall, if necessary, take steps to activate the voting devices and counting equipment by inserting into the equipment and voting devices appropriate data cards containing passwords and data codes that will select the proper ballot formats selected for that polling place and that will prevent inadvertent or unauthorized activation of the poll-opening function. Before voting begins and before ballots are entered into the voting devices, the judges of election shall cause to be printed a record of the following: the election's identification data, the device's unit identification, the ballot's format identification, the contents of each active candidate register by office and of each active public question register showing that they contain all zero votes, all ballot fields that can be used to invoke special voting options, and other information needed to ensure the readiness of the equipment and to accommodate administrative reporting requirements. The judges must also check to be sure that the totals are all zeros in the counting columns and in the public counter affixed to the voting devices.

After the judges have determined that a person is qualified

to vote, a voting device with the proper ballot to which the voter is entitled shall be enabled to be used by the voter. The ballot may then be cast by the voter by marking by appropriate means the designated area of the ballot for the casting of a vote for any candidate or for or against any public question. The voter shall be able to vote for any and all candidates and public measures appearing on the ballot in any legal number and combination and the voter shall be able to delete, change or correct his or her selections before the ballot is cast. The voter shall be able to select candidates whose names do not appear upon the ballot for any office by entering electronically as many names of candidates as the voter is entitled to select for each office.

Upon completing his or her selection of candidates or public questions, the voter shall signify that voting has been completed by activating the appropriate button, switch or active area of the ballot screen associated with end of voting. Upon activation, the voting system shall record an image of the completed ballot, increment the proper ballot position registers, and shall signify to the voter that the ballot has been cast. Upon activation, the voting system shall also print a permanent paper record of each ballot cast as defined in Section 24C-2 of this Code. This permanent paper record shall (i) be printed in a clear, readily readable format that can be easily reviewed by the voter for completeness and accuracy and (ii) either be self-contained within the voting device or be

deposited by the voter into a secure ballot box. No permanent paper record shall be removed from the polling place except by election officials as authorized by this Article. All permanent paper records shall be preserved and secured by election officials in the same manner as paper ballots and shall be available as an official record for any recount, redundant count, or verification or retabulation of the vote count conducted with respect to any election in which the voting system is used. The voter shall exit the voting station and the voting system shall prevent any further attempt to vote until it has been properly re-activated. If a voting device has been enabled for voting but the voter leaves the polling place without casting a ballot, 2 judges of election, one from each of the 2 major political parties, shall spoil the ballot.

Throughout the election day and before the closing of the polls, no person may check any vote totals for any candidate or public question on the voting or counting equipment. Such equipment shall be programmed so that no person may reset the equipment for reentry of ballots unless provided the proper code from an authorized representative of the election authority.

The precinct judges of election shall check the public register to determine whether the number of ballots counted by the voting equipment agrees with the number of voters voting as shown by the applications for ballot. If the same do not agree, the judges of election shall immediately contact the offices of

the election authority in charge of the election for further instructions. If the number of ballots counted by the voting equipment agrees with the number of voters voting as shown by the application for ballot, the number shall be listed on the "Statement of Ballots" form provided by the election authority.

The totals for all candidates and propositions shall be tabulated. One copy of an "In-Precinct Totals Report" shall be generated by the automatic tabulating equipment for return to the election authority. One copy of an "In-Precinct Totals Report" shall be generated and posted in a conspicuous place inside the polling place, provided that any authorized pollwatcher or other official authorized to be present in the polling place to observe the counting of ballots is present. The judges of election shall provide, if requested, a set for each authorized pollwatcher or other official authorized to be present in the polling place to observe the counting of ballots. In addition, sufficient time shall be provided by the judges of election to the pollwatchers to allow them to copy information from the copy which has been posted.

Until December 31, 2015 ~~2011~~, in elections at which fractional cumulative votes are cast for candidates, the tabulation of those fractional cumulative votes may be made by the election authority at its central office location, and 4 copies of a "Certificate of Results" shall be printed by the automatic tabulation equipment and shall be posted in 4 conspicuous places at the central office location where those

fractional cumulative votes have been tabulated.

If instructed by the election authority, the judges of election shall cause the tabulated returns to be transmitted electronically to the offices of the election authority via modem or other electronic medium.

The precinct judges of election shall select a bi-partisan team of 2 judges, who shall immediately return the ballots in a sealed container, along with all other election materials and equipment as instructed by the election authority; provided, however, that such container must first be sealed by the election judges with filament tape or other approved sealing devices provided for the purpose in a manner that the ballots cannot be removed from the container without breaking the seal or filament tape and disturbing any signatures affixed by the election judges to the container. The election authority shall keep the office of the election authority, or any receiving stations designated by the authority, open for at least 12 consecutive hours after the polls close or until the ballots and election material and equipment from all precincts within the jurisdiction of the election authority have been returned to the election authority. Ballots and election materials and equipment returned to the office of the election authority which are not signed and sealed as required by law shall not be accepted by the election authority until the judges returning the ballots make and sign the necessary corrections. Upon acceptance of the ballots and election materials and equipment

by the election authority, the judges returning the ballots shall take a receipt signed by the election authority and stamped with the time and date of the return. The election judges whose duty it is to return any ballots and election materials and equipment as provided shall, in the event the ballots, materials or equipment cannot be found when needed, on proper request, produce the receipt which they are to take as above provided.

(Source: P.A. 95-699, eff. 11-9-07; 96-1549, eff. 3-10-11.)

Section 99. Effective date. This Act takes effect July 1, 2012.