SUMMARY OF CITIZENS UNITED LEGISLATION

TITLE I – REGULATION OF CERTAIN POLITICAL SPENDING

Sec. 101. BAN PAY-TO-PLAY

- **Prevent Government Contractors from Spending Money on Elections.** Government contractors would be barred from making campaign-related expenditures, defined to include independent expenditures and electioneering communications. This is an extension of an existing ban on contributions made by government contractors. Before *Citizens United*, corporations could not make such campaign-related expenditures. A $50,000 contract threshold will be included to exempt small government contractors.

- **Prevent Corporate Beneficiaries of TARP from Spending Money on Elections.**Corporations that received bailout funding from the federal government should not be permitted to use taxpayer money to influence elections. This section would prohibit bailout beneficiaries from making campaign-related expenditures. Once that money is repaid, however, the restrictions would be lifted.

Sec. 102. PREVENT FOREIGN INFLUENCE IN U.S. ELECTIONS

- While foreign nationals, including foreign corporations (those incorporated overseas), are banned from making contributions or expenditures to influence U.S. elections, the opinion in *Citizens United* created a loophole for spending by domestic corporations controlled by foreign nationals. To close the loophole, the legislation extends the existing prohibition on contributions and expenditures by foreign nationals to include domestic corporations under the following circumstances:

    1. If a foreign national owns 20% or more of voting shares in the corporation, which is modeled after the control test in many states, including Delaware;

    2. If a majority of the board of directors are foreign nationals;

    3. If one or more foreign nationals have the power to direct, dictate, or control the decision-making of the U.S. subsidiary; or

    4. If one or more foreign nationals have the power to direct, dictate, or control the activities with respect to federal, state or local elections.

Sec. 103. PREVENT ORGANIZATIONS FROM COORDINATING THEIR ACTIVITIES WITH CANDIDATES AND PARTIES

- The legislation ensures that corporations and unions are not allowed to coordinate campaign-related expenditures with candidates and parties in violation of rules that require these

expenditures to be independent.

- Current FEC rules bar corporations and unions from coordinating with congressional candidates and parties about ads that refer to the candidate and are distributed within 90 days of a primary election or within 90 days of the general election. For Presidential contests, current FEC rules prohibit coordination on ads that reference a presidential candidate in the period beginning 120 days before a state's Presidential primary election and continuing in that state through the general election. Outside these time frames, current law prohibits coordination only on ads that expressly advocate the election or defeat of a candidate.

- This legislation would do the following:

  - For House and Senate races, the legislation would ban coordination between a corporation or union and the candidate on ads referencing a Congressional candidate in the time period starting 90 days before the *primary*and continuing through the *general*election. For presidential campaigns, the legislation would ban coordination between a corporation or union and the candidate on ads referencing a Presidential or Vice Presidential candidate in the time period starting 120 days before the first presidential primary and continuing through the general election.

Sec. 104. POLITICAL PARTY COMMUNICATIONS

- The legislation provides that any payment by a political party committee for the direct costs of an ad or other communication made on behalf of a candidate affiliated with the party is treated as a contribution to the candidate only if the communication is directed or controlled by the candidate.

- Party-paid communications that are *not* directed or controlled by

the candidate are not subject to limits on the party's contributions or expenditures.

TITLE II – PROMOTING EFFECTIVE DISCLOSURE OF CAMPAIGN-RELATED ACTIVITY

The legislation ensures that the public will have full and timely disclosure of campaign-related expenditures (both electioneering communications and public independent expenditures) made by covered organizations (corporations, unions, section 501(c)(4), (5), and (6) organizations and section 527 organizations).

The legislation imposes disclosure requirements that will mitigate the ability of spenders to mask their campaign-related activities through the use of intermediaries.

It also requires disclosure of both disbursements made by the covered organization and also the source of funds used for those disbursements.

SUBTITLE A – REPORTING IMPROVEMENTS TO THE FEC

Sec. 201. INDEPENDENT EXPENDITURES

The definition of an "independent expenditure" is expanded to include both express advocacy and the functional equivalent of express advocacy, consistent with Supreme Court precedent. Additionally, the section imposes a 24-hour reporting requirement for expenditures of $10,000 or more made more than 20 days before an election, and expenditures of $1,000 or more made within 20 days before an election.

Sec. 202. ELECTIONEERING COMMUNICATIONS

This section expands the definition of "electioneering

communications" to include all broadcast ads that refer to a candidate within the period beginning 90 days before a primary election, until the date of the general election. Any such "electioneering communication" is subject to the disclosure requirements in the bill. The section also expands the reporting requirements for electioneering communications to include a statement as to whether the communication is intended to support or oppose a candidate, and if so, which candidate.

SUBTITLE B – EXPANDED REQUIREMENTS FOR DISCLOSURE

Sec. 211. IMPROVED DISBURSEMENT REPORTING REQUIREMENTS

The legislation would require corporations, labor unions, and section 501(c)(4), (5), or (6) organizations—as well as section 527 organizations—to report all donors who have given $1,000 or more to the organization during a 12-month period if the organization makes independent expenditures or electioneering communications in excess of $10,000.

If an organization makes a transfer of funds to another person for the purpose of making an independent expenditure or electioneering communication, the organization shall be treated as making an independent expenditure or electioneering communication. A person shall be deemed to have transferred funds for the purpose of making campaign-related expenditures if there have been substantial discussions about such expenditures between the person making the transfer and the person receiving the funds, if the person making the transfer or the person receiving the transfer knows (or should have known) of the intent to make campaign-related expenditures by the person making the transfer

or if the making the transfer or the person receiving the funds made a campaign-related expenditure in the last election cycle or the current cycle.

Sec. 212. DISCLOSURE OF GENERAL TREASURY FUNDS

If a donor to a covered organization specifies that his donation may not be used for campaign-related activity, the organization is restricted from using the donation for that purpose, and may not then disclose the identity of the donor. The organization's CEO must certify to the donor within 7 days that such funds will not be used for campaign-related activity.

If a covered organization makes a disbursement for campaign-related activity, the CEO must file a statement with the FEC certifying that the expenditure was not made in coordination with a candidate, that funds designated by the donor not to be used for campaign-related activity have not been used for any campaign-related activity, and that the spending has been fully disclosed and made in compliance with law.

Sec. 213. CREATION OF SEPARATE CAMPAIGN-RELATED ACTIVITY ACCOUNT

An organization can establish a separate "Campaign-Related Activity" account to receive and disburse political expenditures. If an organization makes campaign-related expenditures exclusively from its separate account, then it is only required to disclose only donors who have contributed $10,000 or more for unrestricted use or donors who have contributed $1,000 or more specifically for campaign-related activity.

Sec. 214. ENHANCE DISCLAIMERS TO IDENTIFY SPONSORS OF ADS

- **Require Leaders of Corporations, Unions, and Organizations to Identify that they are Behind Political Ads.** If any covered organization (corporation, union, section 501(c)(4),(5), or (6) organization, or section 527 organization) spends on a political ad, the CEO or highest ranking official of that organization will be required to appear on camera to say that he or she “approves this message,” just like candidates have to do now.

- **In order to prevent “Shadow Groups”, Require Top Donors To Appear in Political Ads They Funded.** In order to prevent individuals and entities from funneling money through shell groups in order to mask their activities, the legislation will include the following requirements:

- The top funder of the advertisement must also record a stand-by-your-ad disclaimer.

Source: U.S. Sen. Charles E. Schumer, D-NY, co-sponsor of the bill