## TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The undersigned organizations representing the spectrum of American business are writing to oppose the legislation introduced as the Democracy Is Strengthened by Casting Light on Spending in Elections Act, H.R. 5175 (the "DISCLOSE Act," or "Schumer – Van Hollen"). This legislation is a threat to the First Amendment rights of businesses across the country. It represents a significant departure from past campaign-finance legislation, which sought to treat unions and corporations comparably and was framed in a genuinely bipartisan manner.

Our organizations are among the nation's leading trade associations and business groups. Together we represent virtually the entire range of American industry, including thousands of small and medium-sized businesses. We provide a variety of services to our member companies, including apprising them of important legislative and regulatory developments, and giving voice to their views on matters of public importance.

The Schumer – Van Hollen bill and the manager's amendment expected to be offered on the House floor have been crafted to disadvantage a specific category of speaker: for-profit corporations and the associations that represent them. The legislation places onerous restrictions on corporate free speech while ignoring unions' immense political influence. Like the "card check" bill, this legislation changes election rules to give one side the upper hand.

The legislation's sponsors admit that the bill's purpose is to deter corporations from participating in the political process. Senator Schumer has said the bill will make corporations "think twice" before attempting to influence election outcomes, and that this "deterrent effect should not be underestimated."

This is a direct assault on rights protected by the First Amendment, which the Supreme Court has said "'has its fullest and most urgent application' to speech uttered during a campaign for political office." *Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989). The Supreme Court repeatedly has recognized that voluntary associations are vital participants in our public debate, and that government attempts to curb participation in associations to stifle their voice violate the First Amendment. *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 214 (1986); *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). The Court also has recognized that it violates the First Amendment for the government to engage in "differential treatment" of speakers based on their identity or the content of their message. *Citizens United v. FEC*, 130 S. Ct. 876, 906 (2010).

Schumer – Van Hollen flouts all of these principles through a thicket of new regulatory requirements that are intended to stifle corporate speech but will have no meaningful impact on labor unions. Its provisions include a blanket prohibition on election-related speech by certain government contractors. Thousands of corporations regularly participate in contracts with the federal government; under Schumer – Van Hollen, many of them are categorically barred from making their political views known. That prohibition on core political speech is flatly unconstitutional and directly inconsistent with the Supreme Court's holding in *Citizens United* 

that Congress can prohibit political speech only where it has evidence of *quid pro quo* corruption. *Citizens United*, 130 S. Ct. at 910. There is no such evidence.

The bill imposes no comparable restrictions on labor unions that receive federal grants, negotiate collective bargaining agreements with the government, or have international affiliates, even though unions and their political action committees are the single largest contributor to political campaigns and claim to have spent nearly \$450 million in the 2008 presidential race.

The bill's drafters also have carefully calibrated the donor-disclosure requirements to ensure that union members can continue to speak anonymously, while corporate donors will be "outed." The legislation would require corporations and labor unions to report donors who have given as little as \$600 during the year. § 211(a). Because the average union member pays annual dues beneath that threshold—the average dues of the fifteen largest U.S. labor unions were less than \$400 in 2004—most unions would not be required to disclose donors' identities even when they spend millions of dollars on political advertising. The bill's so-called "stand by your ad" requirements for television and radio are an additional, onerous mechanism for people in power to intimidate corporations and silence criticism.

Schumer – Van Hollen's discriminatory treatment of corporations stands in stark contrast to prior campaign-finance legislation, such as McCain-Feingold, in which Congress went to great lengths to treat corporations and unions equally. As noted, this discriminatory treatment is also impossible to reconcile with Supreme Court precedent proscribing "differential treatment" of speakers. *Citizens United*, 130 S. Ct. at 906.

Supporters of the bill claim these provisions are necessary for voters to know who is paying for political advertising. But our organizations and the interests we represent are no secret; we already identify ourselves in political advertisements under current law. The real intent is to force concerned corporations out in the open so they cannot express views about an incumbent member of Congress without fear of reprisal. To quote a 1996 article by the President's nominee for the Supreme Court, Elena Kagan, "Campaign finance laws . . . easily can serve as incumbent-protection devices, insulating current officeholders from challenge and criticism. When such laws apply only to certain speakers or subjects, the danger of illicit motive becomes even greater . . . . ." That is the case here.

By attempting to silence corporations' voice in the political process while enabling unions to retain their enormous influence, Schumer – Van Hollen is a patently unconstitutional threat to the elections process. Its partisan intent is also clear. The bill's principal sponsor in the House is head of the Democratic Congressional Campaign Committee; its other principal sponsor held the equivalent position in the Senate until recently. The sponsors have openly admitted their intent to enact the bill quickly to influence the fall elections.

Schumer – Van Hollen is a direct attack on the rights of the business community and the role our organizations play in the national political dialogue. We urge you to oppose this unconstitutional legislation.

Sincerely,

Affiliated Chambers & Business Organizations of Hawaii

Agricultural Retailers Association

Airforwarders Association

Albany Area (GA) Chamber of Commerce

Albany Area (OR) Chamber of Commerce

Alexander City Chamber of Commerce

American Apparel & Footwear Association

American Architectural Manufacturers Association

American Association of Exporters and Importers

American Bakers Association

American Chamber of Commerce Executives

American Chemistry Council

American Council of Engineering Companies

American Foundry Society

American Frozen Food Institute

American Gas Association

American Hotel and Lodging Association

American Insurance Association

American Lighting Association

American Meat Association

American Moving & Storage Association

American Petroleum Institute

American Trucking Associations

American Watch Association

Anaheim Chamber of Commerce

Arizona Chamber of Commerce & Industry

Arizona-New Mexico Cable Communications Association

Arkansas State Chamber of Commerce/Associated Industries of Arkansas

Associated Builders & Contractors of Western Washington

Associated Builders and Contractors, Inc.

**Associated Equipment Distributors** 

Associated Food Stores, Inc

**Associated General Contractors** 

Associated General Contractors of California (AGC)

Associated Industries of Massachusetts

**Associated Oregon Industries** 

Associated Wire Rope Fabricators

**Association Benefits Corporation** 

Association of Commerce & Industry of New Mexico

Association of the Nonwoven Fabrics Industry

Association of Washington Business

Automotive Parts Remanufacturers Association

Barrington Area Chamber of Commerce

Bismarck Mandan Chamber of Commerce

Boise Metro Chamber of Commerce

**Brawley Chamber of Commerce** 

Brea Chamber of Commerce

**Brick Industry Association** 

**Buckeye Valley Chamber of Commerce** 

Buffalo Niagara Partnership

Builders Exchange Inc.

Building Owners and Managers Association International

Bullhead Area Chamber of Commerce

**Business Coalition for Fair Competition** 

Business Council of Alabama

**Business Roundtable** 

Cabarrus Regional Chamber

California Chamber of Commerce

California Retailers Association

Camarillo Chamber of Commerce

Canandaigua Chamber of Commerce

Catoosa County Chamber of Commerce

Cedar City Area Chamber of Commerce

CenTex Chapter IEC

Central Alabama Chapter IEC

Central Indiana IEC

Central Louisiana Chamber of Commerce

Central Missouri IEC

Central Ohio AEC/IEC

Central Ohio Chapter Associated Builders & Contractors, Inc.

Central Pennsylvania Chapter IEC

Central Washington IEC

Centre County IEC

Cerritos Regional Chamber of Commerce

Clovis Chamber of Commerce

Columbus Area Chamber of Commerce

Construction Industry Round Table (CIRT)

**Consumer Electronics Association** 

Crop Protection Association of North Carolina

**Destination Marketing Association International** 

**Direct Marketing Association** 

Draper Utah Chamber of Commerce

East Tennessee IEC

Eastern Washington Chapter, IEC

Eau Claire Area Chamber of Commerce

Edison Electric Institute

El Centro Chamber of Commerce & Visitors Bureau

Equipment Marketing & Distribution Association

Federation of American Hospitals

Flagstaff Chamber of Commerce

Florida Chamber of Commerce

Florida Fertilizer & Agrichemical Association

Foundry Association of Michigan

Fremont Area Chamber of Commerce

Fullerton Chamber of Commerce

**Futures Industry Association** 

Gateway Chambers Alliance

Georgia Industry Association

Georgia Mining Association

Gillette Chamber of Commerce

Greater Durham Chamber Chamber of Commerce

Greater Effingham Chamber of Commerce & Industry

Greater Fresno Area Chamber of Commerce

Greater Irving-Las Colinas Chamber of Commerce

Greater Montana IEC

Greater New Haven Chamber of Commerce

Greater Phoenix Chamber of Commerce

Greater Springfield Chamber of Commerce

Green Bay Area Chamber of Commerce

Gwinnett Chamber of Commerce

Hampton Roads Chamber of Commerce

HARDI - Heating, Airconditiong & Refrigeration Distributors International

Henderson Nevada Chamber of Commerce

Hilton Head Island – Bluffton Chamber of Commerce

**Howard County Chamber of Commerce** 

**Huntington Regional Chamber of Commerce** 

**Huron County Chamber of Commerce** 

IEC Atlanta Chapter

IEC Chesapeake

IEC Dakotas, Inc.

IEC Dallas Chapter

IEC Florida West Coast

IEC Fort Worth/Tarrant County

IEC Georgia Chapter

IEC Greater St. Louis

IEC Hampton Roads Chapter

**IEC National** 

**IEC NCAEC** 

IEC New England

IEC of Arkansas

IEC of East Texas

IEC of Greater Cincinnati

IEC of Idaho

IEC of Illinois

IEC of Kansas City

IEC of Northwest Pennsylvania

IEC of Oregon

IEC of Southeast Missouri

IEC of Texoma

IEC of the Bluegrass

IEC of the Texas Panhandle

IEC of Utah

IEC Southern Arizona

IEC Southern Colorado Chapter

IEC Southern Indiana Chapter-Evansville

IEC Texas Gulf Coast Chapter

IEC Western Reserve Chapter

IEC, Inc. El Paso Chapter

IEC, Inc. Lubbock Chapter

IEC, Inc. San Antonio Chapter

IEC, South Florida Chapter, Inc.

IECA Kentucky & S Indiana Chapter

IECA of Arizona

IECA of Nashville

IECA of Southern California, Inc.

IEC-OKC, Inc.

Independent Electrical Contractors, Inc

Indiana Cast Metals Association

Indiana Chamber of Commerce

Inland Pacific Chapter Associated Builders & Contractors

International Association of Amusement Parks and Attractions

International Dairy Foods Association

International Foodservice Distributors Association

International Franchise Association

International Housewares Association

ISSA - The Worldwide Cleaning Industry Association

Johnson City Chamber of Commerce

Johnson City-Jonesborough-Washington County Chamber of Commerce

Kailua Chamber of Commerce

Kankakee Regional Chamber of Commerce

Kansas Chamber of Commerce

Kansas Food Dealers Association

Kentucky Chamber of Commerce

Kingdom of Callaway Chamber of Commerce

Lake Havasu Chamber of Commerce

Laredo Chamber of Commerce

Little Rock Regional Chamber of Commerce

Los Angeles Area Chamber of Commerce

Louisiana Association of Business and Industry

Lubbock Chamber of Commerce

Lynchburg (VA) Regional Chamber of Commerce

Management Association for Private Photogrammetric Surveyors

Marine Retailers Association of America

Maryland Chamber of Commerce

McLean County (IL) Chamber of Commerce

MEC IEC of Dayton

Metals Service Center Institute

Michigan Chamber of Commerce

Middle Tennessee Chapter - Associated Builders and Contractors, Inc.

Mid-Oregon Chapter IEC

Mid-South Chapter IEC

Midwest IEC

Mississippi Chapter - Associated Builders and Contractors, Inc

Missouri Chamber of Commerce and Industry

Mobile Area Chamber of Commerce

Modesto Chamber of Commerce

Montana Chamber of Commerce

Montana IEC

Montgomery Area Chamber of Commerce (AL)

Montgomery County (PA) Chamber of Commerce

Morrisville Chamber of Commerce

Mount Vernon-Lee Chamber of Commerce

National Association of Chemical Distributors

National Association of Home Builders

National Association of Manufacturers

National Association of Mutual Insurance Companies

National Association of Printing Ink Manufacturers, Inc.

National Association of Wholesaler-Distributors

National Federation of Independent Business

National Grain and Feed Association

National Marine Distributors Association

National Marine Manufacturers Association

National Mining Association

National Paper Trade Association

National Poultry & Food Distributors Association

National Ready Mixed Concrete Association

National Restaurant Association

National Retail Federation

**National Roofing Contractors Association** 

National Stone, Sand, and Gravel Association

Nebraska Agri-Business Association

New Jersey IEC

New Jersey Motor Truck Association

Niagara USA Chamber

North American Equipment Dealers Association

North Dakota Chamber of Commerce

North Las Vegas Chamber of Commerce

Northern Kentucky Chamber of Commerce

Northern New Mexico IEC

Northern Ohio ECA

**NW Washington IEC** 

Ohio Cast Metals Association

Oklahoma Agribusiness Retailers Association

Oshkosh Chamber of Commerce

Otsego County Chamber

Outdoor Power Equipment and Engine Service Association

Oxnard Chamber of Commerce

Palm Desert Chamber of Commerce

Pennsylvania Chamber of Business and Industry

Pennsylvania Foundry Association

Perry Area Chamber of Commerce

Petroleum Equipment Institute

Plattsburgh-North Country Chamber of Commerce

Printing Industries of America

Public Service Research Council

Puerto Rico Chamber of Commerce

Puget Sound Washington Chapter IEC

Pullman Chamber of Commerce

Regional Black Chamber of Commerce SFV

Renewing American Leadership

Reno Sparks Chamber of Commerce

Retail Grocer's Association of Kansas City

Retail Industry Leaders Association

Rhode Island Chamber of Commerce Coalition

Rio Grande Valley IEC, Inc

Rocky Mountain Agribusiness Association

Rocky Mountain Chapter - Associated Builders and Contractors, Inc.

Rocky Mountain Chapter IEC

Rome Area Chamber of Commerce

Rowan County Chamber of Commerce

Salisbury Area Chamber of Commerce

San Jose Silicon Valley Chamber of Commerce

Schuylkill Chamber of Commerce

Scottsdale Area Chamber of Commerce (AZ)

Small Business & Entrepreneurship Council

Society of American Florists

South Carolina Fertilizer & Agrichemicals Association.

Southeast Pennsylvania Chapter - Associated Builders and Contractors, Inc.

Southeast Texas Chapter - Associated Builders and Contractors, Inc.

Southern Crop Production Association

Southern New Mexico IEC

St. George Area Chamber of Commerce

Tempe Chamber of Commerce

Tennessee Chapter, Associated Builders and Contractors, Inc.

Texarkana USA Chamber of Commerce

Texas Association of Business

Texas State IEC

Textile Care Allied Trades Association

The American Financial Services Association

The Business Council of New York State, Inc.

The Business Council of Westchester

The Chamber of Commerce of West Alabama

The Chamber of Commerce serving Middletown, Monroe, and Trenton (OH)

The Chamber of Medford/Jackson County

The Colorado Association of Commerce and Industry

The Greater Elkhart Chamber of Commerce

The Greater York Region Chamber of Commerce

The Lodi District Chamber of Commerce

The Remanufacturing Institute

The State Chamber of Oklahoma

Transportation Intermediaries Association

Tri State IEC

Tri-City Regional Chamber of Commerce

Truck Renting and Leasing Association

Tucson Metropolitan Chamber of Commerce

U.S. Chamber of Commerce

U.S. Travel Association

Warren County Regional Chamber of Commerce

Washington Automotive Wholesalers Association

**WECA IEC** 

Western Colorado IEC

Wichita Chapter IEC

Winston-Salem Chamber of Commerce

Wisconsin Crop Production Association

60 Plus Association