



**Testimony of  
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**Before the  
Government Administration and Elections Committee  
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My name is Karen Hobert Flynn and I am the Vice President of state operations for the national organization of Common Cause and former Chair and Executive Director of Common Cause in Connecticut.

Common Cause in Connecticut is a nonpartisan, nonprofit citizen lobby that works to improve the way Connecticut's government operates. Common Cause has more than 400,000 members around the country and 36 state chapters. We have approximately 7200 members and activists in Connecticut.

I am here to testify for Common Cause in support of some elements of Raised Bill 5528, and in opposition to some provisions of R.B. 5528, An Act Concerning Changes to the Public Financing Act and Other Election Laws.

Common Cause supported the very strong disclosure bill drafted by this committee and passed into law in May of 2010, in the wake of *Citizens United* decision. The challenge was that it was done quickly, before the 2010 elections witnessed a huge explosion of secret money being spent at the state and federal level. In addition, the implications of the *SpeechNow* decision was not yet known, because that decision said that the existing \$5000 per year limit on the amount an individual could contribute to a third party group to make independent expenditures is unconstitutional. In 2010 alone, \$489 million was spent by outside groups at the federal level and the flood independent expenditures and wealthy donors and corporations giving to SuperPACs and front groups have made a total mockery of disclosure and coordination laws. Special interests injected huge sums of money via independent expenditures into many state level races, targeting state level candidates with vicious attack ads and we expect to see more of this kind of secret spending in 2012.

**Disclosure of all donors**

Connecticut's law currently requires timely disclosure of electioneering communications and independent expenditures by any entity, and requires a disclaimer featuring the CEO and listing of the top five donors. But we have learned that there is still much unknown to the public about the vast amounts of money spent by secret donors and front groups. Common

Cause supports this proposal which adopts comprehensive new disclosure requirements that will provide for prompt public disclosure of campaign-related spending by corporations and other covered organizations. Importantly, organizations are required to identify all the sources of the funds they use for campaign spending, including any donors who gave in the aggregate \$1,000. This essential provision is necessary in order to ensure that public disclosure of campaign-related spending actually works and that the money used to influence Connecticut campaigns cannot be hidden behind conduits, intermediaries, and shadowy front groups used to mask the true sources of funds.

In addition, the proposed legislation is fair to donors because if the entity that engages in independent expenditures sets up a separate segregated fund for political purposes, only those donors are subject to the disclosure requirement. In addition, donors are empowered because any donor can restrict the donated funds from being used for campaign-related expenditures, and if they do so, the donor will not be subject to any disclosure requirement.

Finally, this bill requires disclosures of transfers, in order to ensure that individual or corporate donors can't hide the true source of the money for independent expenditures by transferring funds through conduits, intermediaries or front groups.

### **Shareholder Protections**

Common Cause strongly supports the common sense protections for shareholder disclosure and empowerment, modeled after how the UK's laws work. Current law does not require corporations to disclose to shareholders whether corporate funds are being used in politics and shareholders have no opportunity to consent to the political use of corporate funds. This law would require corporations to require managers to report corporate political spending directly to shareholders, and second, require managers to obtain authorization from shareholders before making political expenditures with corporate treasury funds.

### **Tighten coordination rules**

We strongly support the bill's coordination rules that will ensure that independent expenditures remain truly independent by clarifying what constitutes coordination.

### **Disclaimer provisions**

Common Cause supports this legislation's "stand by your ad" provisions. Connecticut's law already has attribution provisions that require all entities that engage in independent expenditures or electioneering communications to feature the top five contributors in the ad. This bill will also require a link to a website that lists ***all donors*** and their names and addresses.

## **Stronger Communicator/Client Lobbyist Reporting**

Common Cause supports the provisions that require any registered lobbyist, including communicator and client lobbyists to report electronically to the SEEC the amount of any independent expenditure or electioneering communication made by the registered lobbyist. Current law requires disclosure; it may just be that the SEEC needs to make their disclosure/website more explicit. We see no need to do this through the Office of State Ethics.

## **Cable TV providers**

Common Cause supports the provisions requiring cable stations to post on a central website (in a searchable database): the name/address and contact information of the chair and/or the treasurer of the spender, any donor over \$5000 to the entity purchasing the ad; the date of the ad buy, purpose of expenditure, amount of expenditure, the vendor name and contact information, the name of the candidate or measure mentioned in the electioneering communication or targeted by the independent expenditure, and whether the expenditure was made to support or oppose the targeted candidate or measure. We recommend requiring disclosure when an ad is booked.

The FCC is expected to act on a proposed rule that would replace the antiquated, paper-based filing system for public disclosures by television broadcasters with standardized online reporting. The "public-inspection file" which includes details about the size and timing of political ads is difficult for the public to access, since you can only view the report by going to the individual TV station in person. With SuperPACs and other independent groups spending millions of dollars during an election season, we need to enter the 21<sup>st</sup> century with real, accessible, timely online reporting.

## **Stronger Penalties**

Common Cause believes it is critical to create penalties that are real and will help ensure compliance with the law. Connecticut's disclosure law was blatantly ignored by the Democratic and Republican Governor's Association in 2010. The Democratic Governors Association reported spending **\$1,782,640.60** on Independent Expenditures and the Republican Governors Association reported spending **\$1,612,236.97**, although they filed no disclosure reports and did not list their top five donors.

We support the provisions of this bill that put in place fines for knowingly and willfully violations of this law that would be equal to 200% of the amount of the expenditure, which will provide a real incentive to abide by the law.

## **Problems with the bill**

The proposed bill attempts to deal with the loss of trigger funds available to candidates who participate in the Citizens' Election Program for statewide and legislative races in several ways. First, the legislation proposes – and Common Cause strongly opposes -- to significantly ratchet up contribution limits, undermining the reforms passed in 2005 and encouraging large special interest contributions into the system. Second, the bill proposes two different kinds of ways for candidates to deal with independent expenditures and high spending candidates. We have concerns about both fixes, but the statewide fix is outrageous and we strongly oppose it. Taken as a whole, we are concerned that various elements of these provisions will not only encourage a return to the Rowland-era practices of quid-pro-quo campaign finance corruption by increasing the importance of wealthy special interests within the political process, but it will open the door to far larger, more obscene amounts of money and blatant corruption and it will completely and utterly undermine the Citizens Election program and the important role of small donors in elections.

## **Significantly increased contribution limits**

Common Cause opposes the contribution limit increases in this proposed bill. The bill increases the amount an individual can contribute to the state central committee of any party from \$5000 to \$10,000. The contribution limit to town committees increases from \$1000 to \$5000; and legislative caucus or leadership committees can accept \$2000 instead of the currently allowed \$1000 limit.

Individual contribution limits to gubernatorial candidates would increase from \$3,500 to \$5,000; for statewide offices from \$2,000 to \$4,000; state senate candidates from \$1000 to \$1500 and contributions to state representative would go from \$250 to \$500. The amount an individual could give per election goes up from \$15,000 to \$30,000.

Political committees are allowed to give far more to candidates and parties as well. Political committees organized by business entities or organizations can double the amount they give to gubernatorial from \$5000 to \$10,000; for statewide offices from \$3000 to \$6000; to state senate candidates from \$1500 to \$3000; and state representative from \$750 to \$1500 and the per-election cap doubles from \$100,000 to \$200,000. These committees can give \$15000 to a state party, instead of \$7500 in current law, and the amount they can give to exploratory committees rises from \$375 to \$750.

## **Response to loss of trigger funds for statewide candidates**

We believe that there are many ways to amend our Citizens' Election program to allow candidates to raise small donor contributions to help combat high spending opponents or significant independent expenditures. But it is hard to even take this proposal seriously as a "reform," because it makes a mockery of the goal and intent of any campaign finance reform because it opens the door to any corporation or individual who would like to hand a candidate

for governor or other statewide office millions of dollars for their run for office, after they have participated in the Citizens' Election program.

Allowing candidates to raise unlimited, high dollar contributions from special interests undermines the goal of the Citizens' Election Program and surpasses the problems of the Rowland era. Raises Bill 5528 proposes that if a participating candidate faces an opponent who exceeds the spending limit, the participating candidate would then be allowed to raise unlimited money from PACS, individuals, corporations, labor unions, or parties. While the lobbyist and state contractor limits would remain in place, allowing candidates to raise potentially huge contributions from these entities is a huge mistake and opens the door to special interest money in a way that didn't even exist pre-2005 when a corruption scandal led to the strong laws we now have on the books.

In addition, Common Cause is concerned about the proposal to amend the organizational expenditures for House and Senate candidates for several reasons. The raised bill proposes to double the amount of money that a legislative caucus or leadership PAC could spend on behalf of participating candidates if the candidate faces independent expenditures or the candidate's opponent has spent more than 90% of the CEP candidate's grant. Our first concern is comes dangerously close to setting up what could be seen as a trigger. We don't agree with the Supreme Court, nevertheless, we think that this provision is risky. Under this proposal, if an outside group or a nonparticipating candidate spends money to target a participating candidate, a benefit in the form of increased spending by caucus PACs is triggered for the participating candidate. The Supreme Court decision in *Arizona Free Enterprise v. Bennett* involved a trigger that resulted in additional public funds going to a participating candidate who was the target of independent expenditures. The logic of the Arizona decision is that any independent spending or spending by a nonparticipating opponent which triggers a benefit for the targeted candidate will chill the spending by the nonparticipating candidate or outside group.

Our second concern is that this proposal raises the amount of money that leadership and caucus PACs can raise from \$1000 to \$2000, thereby magnifying the importance of wealthy special interests, instead of emphasizing and enhancing the importance of small donors. We would be open to models that look at providing multiple matches to small donor contributions of \$100 or less as a way to provide candidates who face competitive elections with extra resources – either by allowing candidates to raise that money, in addition to the grant they receive, or allow a caucus PAC to raise small dollar donations up to certain limits.

### **Penalties that go too far**

One provision that we find troubling is that if the State Elections Enforcement Commission finds that any candidate that makes an expenditure that is found to be coordinated in a manner that is not permissible – whether it is a willful violation or not - the candidate must return grant money *and* if only one percent of the candidate's constituents sign a petition to hold a special election, then one will be ordered. The candidate would then have to put on all campaign literature that the new election was required as a result of the

candidate violating the law. We are concerned that this is an extreme response that could create disincentives to participate in the CEP and it does not give the SEEC discretion to examine the facts of the case.

**Conclusion**

We would like to thank the committee for addressing the critically important campaign finance issues of disclosure and strengthening our Citizens' Election program post- ***Arizona Free Enterprise v. Bennett***. ***We believe that the disclosure provisions in this bill are exceptionally strong and important.*** We strongly oppose the provisions to amend the Citizens' Election program for statewide candidates. We also have concerns around the organizational expenditures option for General Assembly races. We would like to continue to explore other options to fixing the public financing system that does not allow huge special interest money back into the system. Thank you for the opportunity to present this testimony today.