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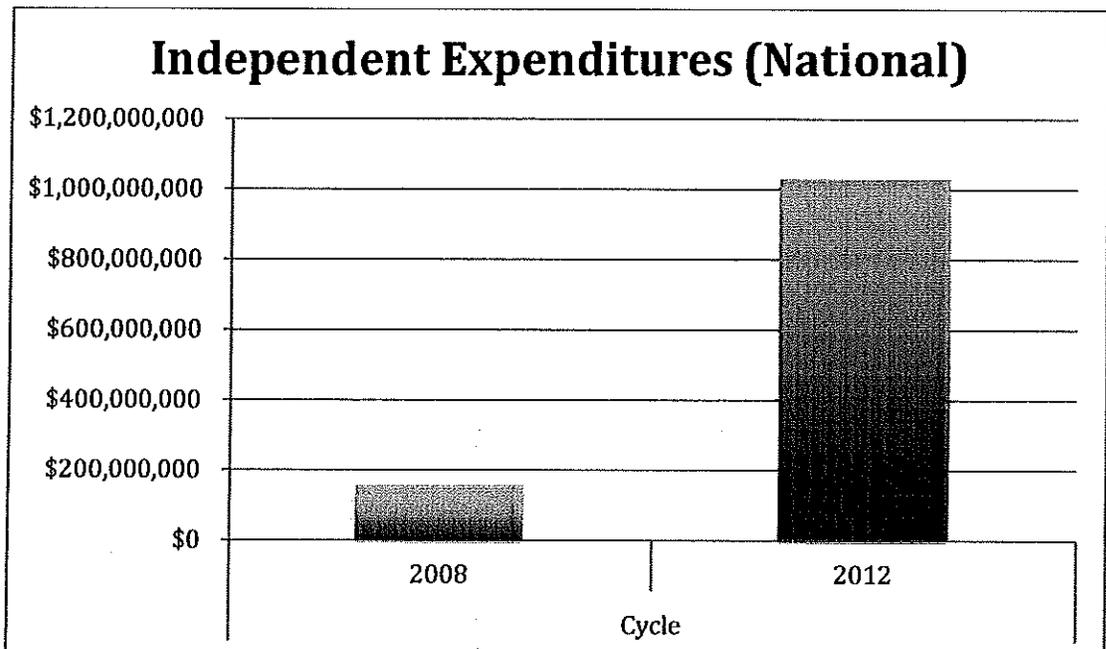
**Testimony of Aaron Goldzimer**  
**Yale Law School<sup>1</sup>**  
**Offering Suggestions to Improve SB 5**  
**March 25, 2013**

Chairman Musto, Chairman Jutila, and distinguished members of the Government Administration and Elections Committee:

Thank you for the opportunity to speak today offering suggestions to improve SB 5, a bill concerning changes to campaign finance laws and other election laws.

My name is Aaron Goldzimer, and I am a first-year law student at Yale Law School. I live and vote in New Haven, in the districts of State Senator Martin M. Looney (District S11) and State House Representative Roland J. Lemar (District 096).

It is imperative for Connecticut to enhance its independent expenditure disclosure law. In the wake of *Citizens United*, independent expenditures on behalf of political candidates are exploding. In just one campaign cycle, we have seen nearly a 700% increase in independent expenditures at the national level, from \$156.8 million just four years ago, to \$1.031 billion in 2012:



<sup>1</sup> The author prepared this testimony through the Yale Law School Legislative Advocacy Clinic, under the supervision of J.L. Pottenger, Jr., Nathan Baker Clinical Professor of Law and Supervising Attorney; Alex A. Knopp, Clinical Visiting Lecturer in Law; and Shelley Diehl Geballe, Clinical Visiting Lecturer in Law.

Connecticut is no exception. Over \$700,000 was spent on independent expenditures in the 2012 general election to support and oppose Connecticut state legislators, including large amounts from sources such as the Realtors PAC, educational interests, and the Roger Sherman Liberty Center. Almost \$300,000 came from the innocuous-sounding "Voters for Good Government", funded by a single multi-billionaire seeking to defeat, among others, the Vice-Chair of this Committee, Ed Meyer.<sup>3</sup>

These expenditures are legal – but, without needed enhancements to our disclosure law, Connecticut voters do not necessarily know who is ultimately behind the various front groups and their political communications and expenditures in the state. Nor can we be confident that donors are not evading contribution limits by coordinating with political campaigns while pretending to operate under the guise of "independent" expenditures. Moreover, as the law currently stands, failures to disclose result in fines of only up to five or ten thousand dollars (unless "knowing and willful"). Even the maximum \$10,000 fine would be just three percent of one Super PAC's independent expenditures in Connecticut last year – and roughly .0002% of the net worth of that Super PAC's main donor.<sup>4</sup> These fines are nowhere near enough to ensure conscientious reporting.

SB 5 is a significant and important reform measure that will make essential changes to Connecticut's campaign finance law. S.B. 5 will strengthen our democracy. I want to point out some of the most important ways it does so – as well as a few suggestions that should be considered in order to make it even more effective.

1. **The bill, unfortunately, does not increase the fines in the current law. Fines for violating any section of this law should be at least 200% of the expenditures involved.** A disclosure law will only serve its purpose if there are real incentives to comply with it.
2. **The bill does require disclaimers on independent expenditure political communications to include a website where *all* sources of funds above \$1000 – not just the top five donors as in current law – will be disclosed.**
3. **The bill does attempt to ensure that the actual donors behind independent expenditures are disclosed – and not just conduits,**

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<sup>2</sup> *Total Outside Spending by Election Cycle, Excluding Party Committees*, Center for Responsive Politics, [https://www.opensecrets.org/outsidespending/cycle\\_tots.php](https://www.opensecrets.org/outsidespending/cycle_tots.php) (last visited Mar. 22, 2013).

<sup>3</sup> Internal spreadsheet analysis from Common Cause.

<sup>4</sup> *Thomas Peterffy*, Forbes.com, <http://www.forbes.com/profile/thomas-peterffy/> (last visited Mar. 22, 2013).

**intermediaries, or front groups.** However, I am concerned that subsection (j) of Sec. 9 may only require disclosure of donors behind one level of intermediaries – and might be evaded by moving funds through two front groups. This may be something the Committee wishes to examine.

4. **The bill does reduce the time windows for reporting independent expenditures,** halving them from forty-eight to twenty-four hours (more than ninety days from the election) and from twenty-four to twelve hours (within ninety days).
5. **The bill does help to clarify what constitutes coordination and, therefore, ensures that independent expenditures are actually independent.** Recently, we have seen examples of putatively “independent” organizations that are run by former aides to candidates, whose founders then become senior advisors to the candidate’s campaign, that jointly host fundraisers with the candidates they support, etc.<sup>5</sup> This makes a mockery of the law related to independent expenditures. NYU’s Brennan Center for Justice recommends, for example, that statutes explicitly define coordination to include: (a) retaining a consultant or employee who is also providing services to the candidate; (b) replicating a candidate’s campaign materials; (c) notifying the campaign about political communications; (d) using information provided by the campaign or its consultants with an understanding that the entity is considering making an expenditure; etc.<sup>6</sup> The bill does contain provisions to address some of these concerns.

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<sup>5</sup> See, e.g., Dan Eggen and Chris Cillizza, *Romney backers launch ‘super PAC’ to raise and spend unlimited amounts*, Wash. Post, June 23, 2011, [http://www.washingtonpost.com/politics/romney-backers-launch-super-pac/2011/06/22/AGTkGchH\\_story.html](http://www.washingtonpost.com/politics/romney-backers-launch-super-pac/2011/06/22/AGTkGchH_story.html); Chris Good, *Karl Rove’s American Crossroads GPS Rakes in \$76M*, ABC News, Apr. 17, 2012, <http://abcnews.go.com/blogs/politics/2012/04/karl-roves-american-crossroads-gps-rakesin-76m>; Jonathan Martin, *Ed Gillespie joins Team Romney*, Politico, Apr. 5, 2012, <http://www.politico.com/news/stories/0412/74857.html>; Dave Levinthal and Kenneth P. Vogel, *Obama super PAC raises \$2.5M*, Politico, Apr. 20, 2012, <http://www.politico.com/news/stories/0412/75419.html>; Peter Stone, *Democrats and Republicans alike are exploiting new fundraising loophole*, iWatchNews, July 26, 2011, <http://www.iwatchnews.org/2011/07/27/5409/democrats-andrepublicans-alike-are-exploiting-new-fundraising-loophole>; Kenneth P. Vogel, *Rick Santorum Speaks at super PAC fundraiser*, Politico, Feb. 24, 2012, <http://www.politico.com/news/stories/0212/73262.html>.

<sup>6</sup>Ciara Torres-Spelliscy, Writing Reform: A Guide to Drafting State and Local Campaign Finance Laws (Brennan Center 2010), VI-7,

- 6. The bill addresses the concern about "chilling" of speech through membership list disclosures by allowing for segregated accounts so that nonpolitical donors can contribute to an organization and still remain anonymous.**

Special interests are allowed to speak in our political system – but we must insist that their independent expenditures, like all political expenditures, are transparently disclosed so that Connecticut voters are able to make fully informed choices regarding the messages we hear and the candidates that these interests support or oppose.

I urge you to adopt S.B. 5 with a few of the provisions changed to reflect the effectiveness concerns I have raised above.

Thank you again for your time. I am happy to answer any questions.