STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE

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Statement of Michael J. Brandi, Executive Director & General Counsel

Senate Bills No. 455 and 453

Good afternoon, Chairperson Musto and Chairperson Jutila, Ranking Members Senator McLachlan and Representative Hwang, and distinguished Committee members. I am Michael Brandi, Executive Director & General Counsel of the State Elections Enforcement Commission. Thank you for the opportunity to provide testimony before you today. I will testifying on behalf of Senate Bill No. 455 which contains the Commission's most important legislative initiative this session, one that is necessary to ensure that the Citizens' Election Program is able to provide grants to all those who qualify. The Commission will also provide testimony in strong opposition to Senate Bill No. 453, An Act Concerning State Party Federal Accounts.

Senate Bill No. 455 - An Act Concerning the Citizens' Election Fund

Connecticut's landmark campaign finance reform, the Citizens' Election Program, is financed through the Citizens' Election Fund (CEF), a non-lapsing fund that receives most of its monies from the sale of abandoned property in the State of Connecticut's custody. When the Program was enacted, the Fund's sufficiency was ensured in two ways: (1) an adequate amount was statutorily mandated to be deposited from the escheats account into the CEF, and (2) there is overdraft protection in the law in the event that there is not enough in the escheats fund to meet the statutorily mandated deposit from that account into the CEF.

In 2011, this changed. The amount to be deposited into the CEF from the abandoned property account was reduced annually by forty percent. As a result of this reduction, the overdraft protection needs to be expanded to ensure that there are enough funds in the CEF to award grants to every qualified committee during a statewide election year. Senate Bill No. 455 creates this additional level of overdraft protection. There will never be a fiscal impact if the overdraft protection is never needed. If it is needed, it will avert disaster for campaigns that qualified for and relied upon the availability of a grant. It is a matter of cash flow, ensuring that the monies are available when needed rather than after the election cycle. The deposit into the Fund from the escheats account may be reduced by the amount of the overflow following the election.

The bill provides a surety, into the future, that those who qualify for a grant will be able to receive one. It makes the Program workable under any level of participation.

Without this second level of overdraft protection, the CEP Fund may be inadequate if there is significant participation by statewide candidates this year.

Senate Bill No. 453 – An Act Concerning State Party Federal Accounts

The Commission strongly opposes Senate Bill 453 as it is currently written. This bill has the potential to up-end the current campaign finance structure in Connecticut and throw it completely out of balance.

We recently issued an Advisory Opinion that described how and when the federal monies raised by federal party committees could be used in connection with the state party and with state candidates. The Opinion reflected our agency's longstanding advice on the subject. The Commission's conclusion was pretty simple: only money raised within Connecticut's campaign finance system can be used to benefit Connecticut state committees. A state central party with a state and federal account must structure its activities so that monies raised in compliance with the Connecticut campaign finance structure are used to pay expenses supporting state-wide and General Assembly candidates, while monies raised within the federal system are used to support federal candidates.

Senate Bill No. 453 confuses that principle by suggesting that up to 50% of a state party committee's expenses can be paid for with federal funds. It is our understanding based on discussions with legislative staff that this bill is meant to limit the use of federal funds by the state party. In essence, reducing the amount from 100% to 50%.

That is not, however, our interpretation of the status quo. As described in detail in the recently released Advisory Opinion, we do not believe that funds raised outside of our campaign finance system can flow to the state party: not 100%, but zero percent. Fifty percent is a huge increase from zero percent, and, in our view, a completely unacceptable one. It would break the Citizens' Election Program, and cause grave harm to our entire campaign financing system. I do not believe that this is what was intended with this bill.

Federal funds can and do include substantial amounts of state contractor contributions—such funds are not permitted to flow to state party committees. Federal funds can and do include substantial amounts of lobbyist contributions—state law is far more restrictive of lobbyist contributions than federal law. The contribution limits for federal committees are much larger than for state parties and are set by federal law. The potential abuse of this system should be obvious: contributors and party committees could simply by-pass Connecticut campaign finance law altogether.

There are, of course, exceptions to this general scheme. The federal party can reimburse the state party for some shared expenses on a pro rata basis, like the shared use of headquarter space. Where staff is concerned, each committee must pay staff separately for work done on behalf of their candidates. We describe some of the nuances of federal election law in our Advisory Opinion, and I won't go into detail here. But the over-arching principle is pretty simple. Keep the finances separate, pay for federal activity from federal funds, state activity from state funds.

While the basic rule is simple, both state and federal election laws can be confusing, especially when they intersect. Our recent Advisory Opinion was an attempt to help clarify some of the confusion, but we realize that more needs to be done and we are ready and available to work with any and all of the dedicated staff here, the treasurers of party committees and political committees and all the others that make up our regulated community to educate and reach reasonable solutions.

We also have provided written testimony supporting Senate Bill No. 451 and House Bill Nos. 5549 and 5552 under separate cover.

I thank you for this opportunity to provide testimony regarding these bills and I would be happy to answer any questions from the committee.