Co-Chairs McLachlan, Flexer, and Fox, Vice Chairs Frantz, Slossberg and Winkler, Ranking Member Devlin, and distinguished Committee members. I am Michael J. Brandi, the Executive Director and General Counsel of the State Elections Enforcement Commission.

There are many bills before the Committee today that are of crucial importance to the SEEC and the matters under its jurisdiction. Let me start with bills that were originally proposed by SEEC. Not surprisingly, the Commission strongly supports these bills.

**H.B. No. 5526, An Act Concerning Dark Money and Disclosure**, is a bill that would greatly shore up Connecticut’s campaign finance system in light of recent trends that we have seen all around us. We feel this bill is particularly important to pass this year because it is carefully tailored to address the most pressing issues that might affect this year’s election. The increased disclosure is absolutely crucial for the electorate to have in order to know who is behind the spending that will take place to influence their votes.

Specifically, the proposed bill combats dark money in Connecticut by peeling back the layers and revealing the sources of funding to makers of independent expenditures by requiring increased disclosure of those sources. It also prohibits foreign entity funding of independent expenditures in Connecticut, something that federal law, arguably, fails to do. Foreign individuals are clearly prohibited from spending on U.S. elections, but businesses
owned by those individuals still may be permitted to make independent expenditures, on social media, for example. This bill prevents that.

This bill requires online platforms to disclose those buying political ads. From our post-election reviews in recent years, we have seen that spending on online media for political advertising is ever-increasing: in 2016, online ads related to the Connecticut elections alone amounted to at least $650,000. (Following our post-election reviews we believe that many of these costs were hidden in consulting fees and therefore the $650,000 figure for web advertising is likely actually much higher.) Many of these ad media companies such as Facebook are now perhaps the biggest players in political advertising. If their business model includes advertising to Connecticut voters, then they would be required to keep and make available the ads they have sold for public inspection. Unlike mailers and other physical artifacts, online ads come and go, are highly customized and difficult to trace. That shouldn’t be the case. It is paid political speech and better disclosure should be a requirement of these companies. Connecticut voters must be given the tools to evaluate the messages so directly targeted at them, using their personal data.

Which media outlets should be subject to this proposal is something that this committee and the legislature at large must consider: how big the companies must be, how busy their websites, how much revenue must they generate from the Connecticut marketplace, etc. We have left those determinations open in our proposal. The idea and the implementation was borrowed from the Honest Ads Act, a federal bill that has been proposed but not yet enacted. I believe that we would be the first state to do so. But the language from that federal bill concerns the entire U.S. media market. Connecticut’s is much smaller and the scale and scope of the legislation must be adjusted accordingly. We are happy to help with those discussions.

The bill also increases transparency and disclosure with respect to public funds spent on consultants. This is something we have proposed in the past, but we have refined it here. The lack of disclosure from consultants serving campaigns and how they spend the money—money often from the CEF, public money—is a problem that hasn’t gone away. We currently do not have the proper tools to hold such consultants accountable for noncompliance, and campaign treasurers are frequently caught between a rock and a hard place when the
consultants fail to provide the information that the treasurers need to comply with the law. This would help both the treasurers and our agency, and provide better accountability and better disclosure to the public.

The bill implements federal court rulings regarding the creation of independent expenditure committees and increases disclosure of independent expenditures and improves SEEC’s ability to monitor and enforce with respect to independent expenditures. It also ensures adequate disclosure and that the 2005 pay-to-play reforms preventing state contractor and other special interest contributions in Connecticut remain effective. Additionally, the bill holds executive officers liable for failures to disclose independent expenditures.

We also strongly support H.B. No. 5518, An Act Protecting The Citizens’ Election Fund. This bill protects the Citizens’ Election Fund for 2018 and future election cycles. The bill streamlines the way the CEF is funded when there are insufficiencies either in the CEF or the escheats fund from which it draws its funds. Originally, in 2005, the CEF was amply funded and given reserves of money for the future. Since that time, it has been relentlessly swept of funds, and instead put on a pay-as-you-go system, where it is given just enough money every cycle to pay for an average election. However, when there is a busier than average election—and the CEP has become more utilized over time—the current system has the flaw of not replenishing the CEF fully when it is drawn down, creating the possibility of a fiscal death spiral. This bill removes a provision that deducts from annual deposits if the CEF is overdrawn, thereby ensuring its future solvency. It is a small change but an important one.

H.B. No. 5522, An Act Restoring The Citizens’ Election Program, Concerning the State Elections Enforcement Commission and Regarding Disclosure of Coordinated and Independent Spending, contains many provisions that we have proposed in the past and is generally intended to improve the CEP and fix some issues that have arisen since its implementation more than a decade ago. Though not all of these provisions have the urgent appeal of our earlier proposals, this bill is meant as a starting point for discussions on how to restore and improve the CEP and to address the argument that it has been compromised by outside events and legislative damage over the years. Significantly, the bill does the following:
• Increases campaign finance disclosure by making it more focused and meaningful and creates bright lines between coordinated and independent spending.

• Restores lost funds. The gubernatorial race lost $3 million in available funds since the inception of the Program. This proposes making a supplemental grant available in that race, where high spending and independent expenditures have consistently been a factor.

• Reestablishes organization expenditure limits erased by Public Act 13-180 while addressing the loss of 60% of the grant monies available to General Assembly candidates at the inception of the Program.

• Term Flexibility. We recommend restoring the ability of the leadership to choose experienced Commissioners.

• Technical fixes. To bring election laws in line with recent Connecticut court decisions.

S.B. No. 498, An Act Concerning the Establishment of Compliant Accounts by Party Committees for Expenditures on State Elections, codifies a 2016 settlement agreement between the Commission and the Democratic State Central Committee, clarifying that all party committees have the option of establishing a compliant account from which expenditures for state elections may be made. The compliant account system provides a simple mechanism for party committees to easily comply with state and federal law, and an easy, transparent way for the parties to report and disclose such spending. We have adapted our eCRIS electronic reporting system to accommodate this reporting, so the work is done and can easily be scaled up for any party committee to use it.

We support also H.B. No. 5517, An Act Concerning Executive Branch Data management and Processes, but we are concerned about its possible impact on our data, especially our repository of campaign finance data in our ever-expanding eCRIS database. We would ask that the legislature consider including our Agency Information Technology Manager, Douglas Frost, in any such discussions that might affect SEEC’s data. We would appoint him as our data officer, if the bill passes. We ask for him to be considered as an appointee to the Connecticut Data Analysis Technology Advisory Board as well.

On to the bills we oppose.
Again a bill has been proposed that would eliminate the Citizens’ Election Program altogether. That bill is **H.B. No. 5519**.

Our staff and our Commissioners come to the legislature, sometimes several times a year, to defend the CEP on its merits, ask for funding to secure its future operation, propose fixes to the law to combat efforts to subvert it, and generally to work with the legislature to improve what is already considered one of the best, if not the best, clean elections financing system in the country.

Instead of another such recitation, let me just ask this: If the bill to repeal the CEP passes, what is the proposed alternative? What campaign finance system goes in its place?

That question deserves to be answered in a full and fair public debate.

We know what came before the CEP. That system was so broken that both parties, the legislature and the Governor, came together to do something about it. So is it back to that old system, the one that had to be radically replaced, or something else?

The alternative to clean elections financing is the old way of doing business, with ever-increasing contributions limits—stripping power from electors and returning it to wealthy contributors who can buy access. For example, the budget, which eliminated the CEP and which was passed (and vetoed) last year, nearly tripled contribution limits for candidates in exploratory committee—increasing the amount to $1,000 not just from people but also from special interest PACs. And it increased contribution limits from leadership and caucus committees to $10,000 and $20,000 for House and Senate candidates respectively. This is in addition to organization expenditures on behalf of these candidates by leadership and caucus committees, as well as town committees and state centrals, which would be unlimited.

Most Connecticut citizens will be unable to afford a Senator’s request for $1,000 for their exploratory committee, $1,000 for the general election and another $1,000 if that Senator has a primary, plus $2,000 a year to each of the leadership and caucus committees that would be infusing their campaigns with cash. But that is what the Senator who wants to run a competitive race will have to ask for under the system established by the budget that was passed. That plus thousands from special interest PACs and executive branch state contractors. In other words, it would be a race to the bottom, without brakes.
That question deserves an answer and that answer should be in hand before bills like 5519 are raised and debated. The public deserves an answer to the question: Where will all the money come from? Will they be asked to contribute more, or will it come from special interests?

Finally, we oppose S.B. No. 497, An Act Prohibiting Independent Expenditures by Foreign–Influenced Business Entities and Limiting Covered Transfers.

This concept proposal seeks to prevent foreign influence in elections, including those held in Connecticut, and limit the amount of covered transfers that may be received from a single person. Federal law already prohibits foreign nationals from directly or indirectly contributing, donating, or spending funds in connection with any federal, state, or local election in the United States. Proposed House Bill 5526 addresses the problem of foreign-owned companies making independent expenditures. We carefully tailored that bill after working with national experts to address the same problem that this bill seeks to address, and we think it would work well.

As far as limiting the dollar amount of covered transfers, we recommend that this Committee carefully review recent court decisions concerning limitations on independent spenders. The Second Circuit has already ruled that limiting contributions to independent expenditure makers is unconstitutional; this would appear to run against that ruling. While challenges to the ruling and the reasoning behind it may be mounted by Connecticut, we strongly suggest that such challenges are undertaken after information from Connecticut elections has been collected and analyzed so that such a proposal may be fully supported by legislative history based on facts gleaned from disclosure. The first step in this direction is passage of House Bill 5526, which will reveal the information necessary for such assessments.

We would like to express appreciation to the Committee, the Office of Legislative Research and the Legislative Commissioners’ Office for their time and effort spent on these bills. It is our sincere hope that the bills will continue to strengthen and improve one of the very best experiments in democracy in the nation. We look forward to working with you further and stand ready to assist in any way. I will begin by answering any questions you may have.
Thank you for the opportunity to present this testimony.

Michael J. Brandi
Executive Director and General Counsel
State Elections Enforcement Commission