STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

TESTIMONY PRESENTED BEFORE
THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE

S.B. No. 431 AN ACT CONCERNING REFERENDA, INDEPENDENT EXPENDITURES AND CERTAIN OTHER POLITICAL SPENDING

H.B. No. 5457 AN ACT CONCERNING MUNICIPAL CAMPAIGN FINANCE FILINGS

H.B. No. 5455 AN ACT CONCERNING CAMPAIGN CONSULTANTS AND DISCLOSURE

H.B. No. 5461 AN ACT ESTABLISHING A TASK FORCE TO STUDY BALLOT PLACEMENT OF REFERENDUM QUESTIONS

S.B. No. 432 AN ACT CONCERNING A TECHNICAL REVISION RELATED TO CAMPAIGN FINANCE

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Statement of Michael J. Brandi, Executive Director & General Counsel
State Elections Enforcement Commission

Co-Chairs Flexer and Fox, Vice Chairs Haskell and Thomas, Ranking Members Sampson and Mastrofrancesco, and distinguished Committee members. I am Michael J. Brandi, the Executive Director and General Counsel of the State Elections Enforcement Commission ("SEEC" or the "Commission"). There are several bills before the Committee today that we believe are significant improvements to the state's statutory campaign finance scheme, especially with regard to disclosure. We thank the committee for the opportunity to speak in support of these bills.

S.B. No. 431 AN ACT CONCERNING REFERENDA, INDEPENDENT EXPENDITURES AND CERTAIN OTHER POLITICAL SPENDING

This bill attempts to improve our campaign finance law in anticipation of the constitutional question that will appear on this year's November ballot, and includes the adoption of a ban on contributions and expenditures by foreign nationals. It also contains some long overdue updates to Connecticut statutes to reflect rulings in United States Supreme Court and Second Circuit cases made in 2013 and 2014. In particular, the proposal accomplishes the following:

Foreign Spending

Federal law bans foreign nationals, including foreign citizens and foreign governments, from spending in federal, state and local elections. However, the Federal Election Commission recently ruled that the federal bans do not prevent foreign spending in referenda, including referenda like the constitutional question this fall. Other states have addressed this problem at the state level. This proposal would do the same, preventing foreign interference in Connecticut referenda and elections and allow for adequate enforcement of such violations.

Independent Expenditure Fixes

This proposal adjusts statutes to reflect court rulings regarding independent expenditure political committees which have been in effect for over eight years. See the *Citizens United* & *Speech Now* line of cases adopted by the Second Circuit in *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 485 (2d Cir. 2013) and *Vermont Right to Life v. Sorrell*, 875 F. Supp. 2d 376, 403-404 (D. Vt. 2012).

Aggregate Limit Fixes

The proposal also makes statutory adjustments to reflect the ruling in *McCutcheon v. Federal Election Commission*, 572 U.S. 185 (2014), striking down aggregate contribution limits for individuals.

Referendum Clarification and Upgrade

Public Acts 10-187 and 13-180, in addressing independent expenditures, muddied the waters with respect to referendum expenditures by treating them sometimes explicitly, and other

times implicitly, as a type of independent expenditure while in still other places, such expenditures are treated as separate. Changes are proposed that will make it more explicit that referendum spending is a type of independent expenditure and must be reported accordingly, and, similarly, that referendum committees are a type of independent expenditure political committee. Also, rules for contributions to all independent expenditure committees will be made uniform.

Attribution Fixes

When Public Act 13-180 was adopted, it placed the section on attributions for independent expenditures for candidates and parties at the end of section 9-621 in subsection (h). There is an exception for disclaimers on lawn signs and paraphernalia but that exception only applies to subsections (a), (b) and (c)—not to (h). We believe this is an oversight and should be fixed. Similarly, there are no attribution requirements for spending on a referendum for the mediums of television, internet, and robocalls while there is for all other types of independent expenditures.

Organization Expenditure Fix

The proposal includes a change to require only the disclaimer of the paying committee for organization expenditure party candidate listings, not the individual disclaimer of all candidates mentioned.

We think all of these changes are uncontroversial and would considerably improve and clarify the election laws that are already on the books. We strongly support this bill.

H.B. No. 5457 AN ACT CONCERNING MUNICIPAL CAMPAIGN FINANCE FILINGS

The State spent well over one million dollars to develop and implement eCRIS, Connecticut's electronic filing system. It now works seamlessly for party committees, General Assembly and statewide candidates, and political committees spending on those offices. Disclosure is instantaneous and available from any computer or phone. The benefits of this system can be extended to include candidates and candidate committees running at the local level, as well as

political committees spending at the local level who currently file with their local town clerks. This would provide the public with far greater transparency for campaign finance information in local elections and referenda, moving electronically inaccessible filings from storage cabinets in town clerks' offices to electronically searchable documents readily available on the internet. This can be done with little cost to the State.

In 2017, the Commission ran a successful Municipal Campaign Finance Filing Pilot Program under which the Commission served as the filing repository for candidates, candidate committees, and political committees registered with twenty towns for that municipal election cycle. By all accounts it was very successful and a great relief to town clerks. A copy of the Commission's report may be viewed on its website here. With the implementation of electronic registration and a long enough lead time to allow for training and outreach as well as the necessary adjustments in the eCRIS system, the SEEC can make this resource more broadly available.

We strongly support this bill.

H.B. No. 5455 AN ACT CONCERNING CAMPAIGN CONSULTANTS AND DISCLOSURE

With the CEP, small-dollar contributions and clean election grants are fully disclosed, but the money that is spent is sometimes hidden through subvendors and consultants. This proposed bill clarifies disclosure requirements for committees utilizing consultants and helps protect treasurers by placing liability where it belongs – on the consultants. Additionally, it will help us to detect impermissible coordination by shining a light on common vendors that may facilitate hidden coordinated expenditures. The increased transparency with respect to the way clean election funds are spent and the enhanced direct enforcement authority over those hired by committees would serve to safeguard the public fisc and provide greater sunshine on campaign spending.

We strongly support this bill.

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With regard to these two bills, we neither support nor oppose them, but stand ready to work with the legislature if we can be of assistance.

Thank you for the opportunity to present this testimony.

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