

PA10-187

HB5471

Gov. Admin.	798-801, 804-809, 812-813, 873-884, 890-892, 948-950, 978-980	33
House	3417-3482	66
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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
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**VOL. 53  
PART 13  
3842 - 4128**

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SENATE

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THE CHAIR:

Yes, sir.

SENATOR LOONEY:

552 -- Calendar 552, House Bill 5163, move to place  
on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 19, Calendar 550, House Bill 5471,  
move to place on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 19, Calendar 551, House Bill 5413,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 19 -- we reached this I believe  
already -- 552, House Bill 5163 previously placed on  
consent.

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Calendar page 10, Calendar 461, House Bill 5207;  
Calendar 483, House Bill 5244.

Calendar 484, on page 11, House Bill 5383; Calendar  
487, House Bill 5220; Calendar 488, House Bill 5297;  
Calendar 490, 5425 -- House; Calendar 496, House Bill  
5497; Calendar 509, House Bill 5126.

Calendar page 14, Calendar 511, House Bill 5527;  
Calendar 514, House Bill 5426; Calendar 516, House Bill  
5393.

Calendar page 15, Calendar 520, House Bill 5336;  
Calendar 521, House Bill 5424; Calendar 523, House Bill  
5223; Calendar 525, House Bill 5255.

Calendar page 16, Calendar 531, House Bill 5004.

Calendar page 17, Calendar 533, House Bill 5436;  
Calendar 540, House Bill 5494; Calendar 543, House Bill  
5399.

Calendar page 18, Calendar 544, House Bill 5434;  
Calendar 547, House Bill 5196; Calendar 548, House Bill  
5533; Calendar 549, House Bill 5387; Calendar 550, House  
Bill 5471; Calendar 551, House Bill 5413; Calendar 552,  
House Bill 5163; Calendar 553, House Bill 5159.

Calendar page 19, Calendar 554, House Bill 5164.

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Calendar page 20, Calendar 556, House Bill 5498;  
Calendar 557, House Bill 5270; 559, House Bill 5407; 562,  
House Bill 5253; and House Bill -- Calendar 563, House  
Bill 5340; Calendar 567, House Bill 5371; and Calendar  
573, House Bill 5371.

Mr. President, I believe that completes the items

THE CHAIR:

Mr. Clerk, could you please give me on Calendar 567,  
do you have 5516, sir?

THE CLERK:

What -- what calendar?

THE CHAIR:

567 on page 22.

THE CLERK:

It's 5516.

THE CHAIR:

Yes, sir. Okay.

Machine's open.

THE CLERK:

An immediate roll call vote has been ordered in the  
Senate on the consent calendar. Will all Senators please  
return to the chamber. Immediate roll call has been ordered in the Senate on the  
consent calendar. Will all Senators please return to the chamber.

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THE CHAIR:

Have all Senators voted? Please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent  
Calendar Number 2.

Total number voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President.

Mr. President -- Mr. President, before moving to adjourn, I would like to ensure the entire chamber will wish Laura Stefon, Senator McDonald's aide, my former intern, a happy birthday.

And with that -- and with that, Mr. President, I would move the Senate stand adjourn

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Necessary for Passage	72
Those voting Yea	109
Those voting Nay	34
Those absent and not voting	8

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Representative Olson.

REP. OLSON (46th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise to move for the immediate transmittal of all actions that we have taken today that need further action in the House -- Senate.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Is there objection? Hearing none, they are transmitted.

House will stand at ease.

(Chamber at ease.)

DEPUTY SPEAKER GODFREY:

House will come back to order, and we will return to the call of the calendar.

Mr. Clerk, please call Calendar 263.

THE CLERK:

On page 11, Calendar 263, Substitute for House

Bill Number 5471, AN ACT CONCERNING INDEPENDENT  
EXPENDITURES, favorable report of the Committee on  
Government Administration and Elections.

DEPUTY SPEAKER GODFREY:

House will stand at ease.

(Chamber at ease.)

DEPUTY SPEAKER GODFREY:

The Chair is pleased to recognize the tardy  
chairman of the Government Administration Election  
Committee, Representative Spallone.

REP. SPALLONE (36th):

Good evening, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Good evening, sir, welcome.

REP. SPALLONE (36th):

Thank you, thank you.

I had -- I had mentioned my departure to -- to  
the people who should know but that's okay. I'm  
ready to go, and I apologize to the chamber.

DEPUTY SPEAKER GODFREY:

They -- they just didn't let me know.

Thank you.

REP. SPALLONE (36th):

Mr. Speaker, I move acceptance of the joint

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committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

Question's on passage. Will you explain the bill, please, sir?

REP. SPALLONE (36th):

Thank you, thank you -- thank you.

Mr. Speaker, on January 21, 2010, the Supreme Court of the United States, in a 5 to 4 decision called Citizens United versus the Federal Election Commission, made a -- issued a decision which greatly changed the landscape of campaign finance law in the United States, both at the federal level and at the state level.

To give a little bit of history before I call the amendment, which will become the bill, in 1907, at the prompting of, then, President Theodore Roosevelt, the Congress of the United States passed legislation banning the direct contribution by corporations to candidates for federal office. This followed along the heels of state legislation in several states which did the same thing. At that time, President Roosevelt in his message to Congress expressed concern about the influence of large

corporate treasuries on political life in the United States and on the spending of money that came from shareholders on political campaigns and said that a law banning such contributions, as far as it went, would be an effective method of stopping the evils aimed at in Corrupt Practices Act that was the Tillman Act.

In 1947, the Congress passed a law banning direct expenditures on political activity by corporations and unions for the direct -- to assist in the election or defeat of a candidate for federal office. And, Mr. Speaker, that was the law of the land until January 21st of this year.

So this decision, Citizens United, struck down 60 years of federal law regarding independent expenditures by corporations and trade unions and also really affected the landscape of campaign finance law dating back about a hundred years. It affected the laws in 24 states, including Connecticut. We have had a ban for decades on expenditures by corporations and organizations and unions for -- on communications directly related to the election or defeat of a candidate. So, Mister -- but I also should mention because this is

important to the bill and to the amendment that the Supreme Court, by an 8 to 1 holding, said that disclosure and attribution were completely appropriate to create transparency so that voters and the public know who is paying for these announcements and who has donated to those organizations in order to do so.

And so we've been working in the GAE Committee on a bill that would create that kind of transparency, create those kinds of disclosures and allow the public to know who would be paying for such advertisements in the coming election and in future years.

So, with that in mind, Mr. Speaker, the Clerk is in possession of an amendment, LCO 4761. I ask that the amendment be called, and I be granted leave of the chamber to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 4761, which will be designated House Amendment Schedule "A."

Mr. Clerk, please call the amendment.

THE CLERK:

LCO Number 4761 offered by -- oh, it's House

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"A" sorry -- offered by Representative Spallone, et al.

DEPUTY SPEAKER GODFREY:

The gentleman's asked leave of the chamber to summarize. Is there any objection? Hearing none, please proceed, Representative Spallone.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment replaces the -- the underlying bill. It is a strike-all amendment. It made a few changes to -- to the bill that was approved by the committee. It made some improvements to the language, some technical changes, but also did add a few changes in policy to strengthen what will become the law.

And I'm going to move adoption at this time and then remark further on the substance of the amendment.

DEPUTY SPEAKER GODFREY:

Question's on adoption of House Amendment  
Schedule "A"?

Representative Spallone.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Mr. Speaker, I'll just take a few moments to explain this amendment, which does become the bill.

Section 1 changes the definition of "agent" to make it congruent with the common law. It adds a definition of "entity" to cover state-authorized business models. It strikes our current definition of an independent expenditure.

Section 2 defines "independent expenditure" for the purposes of this bill.

Section 3 makes clear what is not an independent expenditure and creates a rebuttable presumption, though, that's in Section 2.

Section 4 sets a \$1,000 threshold for forming a political committee.

Section 5 removes the requirement for two or more individuals acting together who receive or spend no more than \$1,000 to file an exemption before advocating for and against a referendum question.

In Section 6 or 7, we get to the heart of the bill. Section 6 requires groups covered by the act who make an independent expenditures worth more than \$1,000, in the aggregate, to file a report. It requires that their independent expenditure reports

be filed electronically within 48 hours, if the primary election is more than 90 days away; or within 24 hours of the primary or election is less than 90 days:

Section 7 expressly provides and Section 8 expressly provides that such independent expenditures by entities acting alone are now allowed under Connecticut law. We are not expressly repealing our ban on this kind of activity but rather adding a notwithstanding clause in light of Citizens United to allow this kind of expenditure.

Section 10 concerns the attribution and disclosure requirements that in all kinds of electioneering, communications that are independent expenditures under the act that a "paid for by" attribution must be included; that an "approved by" message must be included; and if it's a corporation or other entity, it would have to be by the CEO of such corporation or entity. And it also requires the -- that the disclaimer "This message was made independent of any candidate or political party be made."

Section 9-622 is amended. That's the illegal practices section to reflect the newly adopted

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definition of independent expenditures.

And that's the major substance of the amendment, which becomes the bill. Mr. Speaker, I would ask that when the vote is taken on the amendment, it be taken by roll.

DEPUTY SPEAKER GODFREY:

Question's on a roll call.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Twenty percent has been made. The vote will be taken by roll call.

Representative Spallone.

REP. SPALLONE (36th):

I have nothing further at this time, Mr. Speaker. Thank you.

DEPUTY SPEAKER GODFREY:

Will you remark further on House Amendment Schedule "A"?

The gentleman from New Britain, Representative O'Brien.

REP. O'BRIEN (24th):

Thank you, Mr. Speaker.

I rise in opposition to the amendment. And I do so because of the substance of Sections 7 and 8.

The overall bill is -- and the amendment which would become the bill is a good one. I think it could be stronger. But it is good to require disclosure of these independent expenditures. However, I have a strong objection to changing our state law in a way that has the effect of legalizing corporate expenditures on campaigns. And if we enact this -- this bill, the amendment and this legislation, as it is written, that is what we will be doing.

We should be doing just the opposite, sending a message to the Supreme Court of the United States that they were wrong in their decision. And I'm not even going to call it a Citizens United decision. I call it corporations united. It presented the opportunity for the largest and most powerful corporations in the world, some of which are not even controlled by citizens of this country, to dominate our election process, to buy control of what should be the democratic processes that belong to the people of our nation.

It was a wrong decision. It was a corrupt

decision. It was one of the worst decisions that has been made by the Supreme Court of our country, and it should be, revoked immediately. We need to send a message that this cannot stand. And we should not take the step of legalizing, in our laws, what should not be -- have been legalized by the Supreme Court.

I would ask the members of this body to oppose this amendment right now. I would like to see -- I would like to see this act changed in a way that makes it so that the laws of our state will stay as they were with regard to corporate expenditures; that they are unlawful; that they are illegal; that we are not going to allow corporations to use their vast resources to buy control of our election process. That should remain the law of the land. If people want to challenge that in court, so be it, so be it. Let them do the wrong thing and let us defend the right law as it stands today on the law -- on the books today.

We should have disclosure and Representative Spallone has done a good job putting together a well-balanced piece of legislation providing for that, but this legislation, as it is written right

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now, is not something I can support. So I plan on voting no, and I urge my colleagues to, as well.

Thank you.

DEPUTY SPEAKER GODFREY:

Will you remark further on House Amendment Schedule "A"? If not, staff and guests please come to the well of the House. Members take your seats. The machine will be opened -- never mind.

The ranking member of the Government Administration and Elections, Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. And I'm sorry if I was a little slow on the uptake. I apologize, sir.

I rise to speak on the amendment because the amendment will substantially become the bill.

First of all, I take offense at the remark that this is a corrupt decision. This is a charge that the Supreme Court of the United States in its legitimate role in interpreting the laws of the United States has made a corrupt decision. I would like to know which of the justices was corrupted in this decision? Which was paid off? Which was somehow influenced in an improper way to reach this

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decision? I think this is outrageous and unbecoming this House to call a Supreme Court decision corrupted.

Also, I believe that this decision, which is now the law of the land, is being railed against now in a manner that sounds to me like nullification. I've heard others speak in recent months about how they disagree with federal law and speak about how nullification or the equivalent of nullification is the remedy. How we ought to decide which federal laws we want to abide by and which we don't want to abide by.

Well, Mr. Speaker, I submit that that was settled at Gettysburg. And the federal law is the supreme law of the land and that law is interpreted by the Supreme Court of the United States. The earlier decision in 1908 may be a venerable decision but not necessarily the correct decision. Many decisions which last for years in our Supreme Court were later repudiated. I can -- I recall immediately Plessy versus Ferguson, which was years and years the law of this country and finally we repudiated it in Brown against Board of Education. I also think of Dred Scott, which was the law of

this land for years until the abhorrent doctrine set forth in that decision was finally repudiated by our Supreme Court and our Congress.

Ladies and gentlemen, the decision in United -- in Citizens United was the decision of the Supreme Court of the United States and, therefore, the law of the land. How we might want to regulate entities in this state which express themselves is a fair matter for deliberation by this body. I would note that this opportunity presided -- provided by Citizens United gives every side, represented by an entity, the opportunity to express itself, corporation, unions, other entities. Was this the intent of the original founders? I don't know. I don't know how the original founders felt about corporations. But, you know, we are constantly told that our constitution is a living, breathing, growing document; and, therefore, we have to adopt it to the times. Well, the times are such that our supreme judicial court has determined that entities, like corporations and unions, have a right to speak.

It's far different than it was in the time of Teddy Roosevelt, who -- during -- whose time trusts and combinations of corporations ruled our economy

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when unions were not allowed to have the access to negotiations that they do now; that the rights of our workers were not recognized. But now we have a much more equal balance in our society, and we can well afford to let both sides have an opportunity to speak.

Disclosure, I don't necessarily agree with all the disclosure that is provided in this bill or this amendment, which has become the bill, but it is fair to regulate the disclosure of the supporters who have an opportunity now to speak under Citizens United.

It's interesting irony, isn't it, that a corporation, if it's simply a corporation, is not to speak, is not to speak. But if it owns -- if it owns a media corporation, then it can speak. The New York Times Corporation can speak in its editorials, can take positions, can endorse candidates, and that's all right. That's all right, if it's a media corporation, but not if it's a business corporation that doesn't print a newspaper or operate a radio station or a television station. What is it about a media corporation that gives it a special privilege and an opportunity to speak.

I guess that if corporations, business corporations, were sufficiently motivated, they might start a subsidiary. That's a -- that is a media corporation that publishes a newspaper or broadcasts radio messages or television shows and then it can speak, then it can speak. But not if it's just a business corporation. Not if a corporation that employs thousands of workers and upon whose success thousands of workers depend and who has an -- and a corporation that has a vital interest in our economy and the public policy of this state and this country, no, they can't speak.

Well, our court has held that they can speak. And unions can speak. And, in the great marketplace of ideas, they both should speak. And I have no problem with proper disclosure so we know who's speaking. But let's not say that we're going to attempt to nullify the decision of our court or maintain that it's corrupt or such is not worthy of this body.

Mr. Speaker, I have to respond to that. I'm going to vote in favor of adopting this amendment because I think it should be properly before the House no matter what the final decision may be.

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Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentlewoman from Simsbury, Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

A few questions for the proponent of the bill, and I --

DEPUTY SPEAKER GODFREY:

Please proceed, madam.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

I apologize. I didn't have a chance to talk with you further or at all before this came out so I have a few questions that I'm hoping you can allay my fears.

I'm a little concerned about the section that has to do with the rebuttable presumption. And I do understand that we're changing the concept of coordinated expenditures now and getting rid of that concept. But my concern is that if it's automatically assumed that if a union or a company spends money on my behalf that it's a rebuttable

presumption that that was something I knew about and, therefore, whatever they spend is deducted from what I can spend in my own campaign. And it's very difficult to prove that I didn't know that.

A rebuttable assumption that forces me to prove the negative is very difficult. How do you prove the absence of something? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone, do you care to respond?

REP. SPALLONE (36th):

Through you, Mr. Speaker, to the gentlewoman from Simsbury, the -- the amendment before us, actually, provides more protection for the candidate than current law defining coordinated expenditures. Because under current law, those coordinated expenditures were defined by statute and so it would be within the purview of the SEEC in response to a complaint to determine whether or not these were independent or coordinated expenditures.

By including rebuttable presumptions language in the amendment, you're really giving the opportunity if the candidate were, in fact, questioned to respond as to why these were not

coordinated.

I should add that any such independent expenditure, if it complies with the new law, will state that it is not made in coordination with a candidate or political party. So that statement in itself is supposed to be definitive and complying with the law. If somebody brings evidence to the SEEC that that's not the case, they may investigate it, but at least this provision adds some due process into a system where otherwise the agency itself would simply decide, based on the language in the statute, whether or not it was coordinated. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD. (16th):

Thank you, Mr. Speaker.

I just would like to follow up a couple questions on that.

You indicated or I thought I heard you say that it would have to be based on a complaint that the SEEC would use this rebuttable presumption, but I didn't actually see that in the bill. It seemed to me that any expenditure made -- and quite a broad

number of types of expenditures, any of them would automatically be considered to be a coordinated expenditure as a rebuttable presumption. Can you clarify whether someone has to make a complaint about it or whether the SEEC, in every instance, will be making its own determination? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Thank you, Mr. Speaker, to Representative Schofield.

The SEEC does have broad jurisdiction regarding enforcement of our election laws and so in reviewing expenditure reports, they may, I suppose, raise a question and decide to look into it further. And they do have some discretion regarding beginning an investigation. But I don't believe that they would have the time, inclination or resources to go seeking out independent expenditures in the -- in the wider world. So under most circumstances, it would arise due to a complaint.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

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REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

I guess I'm still concerned, though, about how do you define what is a rebuttable presumption -- I mean, how to you defend yourself against a rebuttable presumption? How do -- how does a candidate prove that they didn't know something about what was going on?

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Schofield, if it got to that point, it would be through documents, testimony, affidavits, and so forth, simply stating that there was no coordination with the party that produced the independent expenditure -- that made the independent expenditure and produced the campaign material, advertisement whatever the case may be. So that is how it would be proven if it got to that point.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

So, just to be clear and for purposes of legislative intent, then, what you're saying is the absence of documentation that I was or that the candidate was involved and aware becomes proof that they were not aware. The -- because, to me, otherwise it's impossible to prove the negative, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Thank you.

Through you, Mr. Speaker, yes, I believe the SEEC, as the trier of fact in such a matter, would certainly take into account the fact that the candidate did not have any documentation that would tend to show coordination so that would be, as Representative Schofield suggested, in the candidate's favor.

REP. SCHOFIELD (16th):

Okay.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you.

So whoever might be filing the complaint or the SEEC, themselves, would have to actually produce documentation that the candidate did, indeed, know about the expenditure in order to claim that it was a coordinated expenditure. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Schofield, certainly, the complainant would bear the burden of proof and the complainant whether it be the SEEC or a complaining party bringing a matter to the SEEC would certainly have to show a coordination and the candidate would be able to rebut that with evidence.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

I guess I'm not an attorney but I would say since the burden of proof is on the complainant or the SEEC that that's a little bit at odds with saying that there's a rebuttable presumption that

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the candidate is at fault. Because it really -- appropriately, I think what you're saying is appropriate that the burden of proof should be with the accuser since it's very difficult to prove the null set for the candidate. So I hope it's very clear in legislative intent that if there is no documentation of wrongdoing on the part of the candidate or of coordination, in this instance, that the candidate is not at fault and there is no deduction taken from their expenditure limit unless there is proof by the complainant against them.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, I didn't realize that there was a question coming until the very end; however, I would -- I would simply respond, again, by saying, really to be clear for the record, that a case isn't only proven by documentation. There could also be oral testimony that is taken by a adjudicating body from witnesses so I just want to add that for the record. But, certainly, when a complaint is made or if it goes to a court, the

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moving party would need to prove by whatever the standard of proof is that the other party was at fault. This is definitional in nature. It states what is -- what is a coordinated expenditure, what's not independent. And that these types of activities -- and they're quite specific as being candidate or campaign driven -- are not independent expenditures and any statement to that effect could be rebutted by the candidate.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker.

I appreciate Mr. Spallone's -- Representative Spallone's answers.

DEPUTY SPEAKER GODFREY:

Thank you, ma'am.

The gentleman from Southbury, Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

If I may, a few questions, through you, to the proponent of the amendment.

REP. SPALLONE (36th):

Mr. Speaker, I apologize. I'm ready to receive any questions from the gentleman from Southbury.

DEPUTY SPEAKER GODFREY:

It's quite all right. Debating while distracted is not yet a crime.

Representative O'Neill, will please frame your question.

REP. O'NEILL (69th):

I actually hadn't framed it yet.

The first question is the language of the amendment, particularly, the language that constitutes the core of the amendment in Sections, I believe, 6, 7, 8 and, thereafter, was this language the subject of a public hearing? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Was -- was it the underlying -- part of the

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underlying bill or was this part of some other bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, Section 6 was not part of the underlying bill. That -- the Section 6 in which it requires the electronic filing within certain time limits was not part of the underlying bill; Section 7, making a technical correction specifying entities that are eligible to make independent expenditures, that technical correction, was not part of the underlying bill. But the same substantive portion that wasn't part of the underlying bill, is the filing requirements, electronic filing, and the time.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

So that those sections that are found in, say, for example, starting in Section 10, that was all part of the underlying bill? The new language that is in Section 10, through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Mr. Speaker, in Section 10, the addition of listing top five contributors is part of the amendment, not in the underlying bill. And I would add, Mr. Speaker, that at the public hearing, there was a great deal of testimony regarding all kinds of possible ways to respond to Citizens United, some of which are incorporated in the amendment.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

The reason why I'm asking about the public hearing is that -- that's one of the principal ways in which our courts discern legislative history. The other way is through the debates that occur on the floor of the House and the Senate and oftentimes when a court is trying to construe a statute with -- particularly, if it has new language that hadn't been previously in the statutes before, they will look to the public hearing. If there's language that's been discussed there and then they return --

they look at the discussions we have on the floor of the House and the Senate. And it seems to me, therefore, that it might be worthwhile to walk through the new language, particularly, in Section 10, and I'm not sure if it extends down further, but -- into Section 11, but there's a lot of new language in Section 10.

I guess the first question that I would ask is when the decision was made or the language contains a requirement that a 501(c)(3) tax exempt type organization is if they are disseminating information and -- and in effect speaking, that they have to disclose the top five contributors to the -- to the organization during the 12-month period before the date of such communication. And if I could ask, what is the derivation of the requirement for the top five? Is that found in some other statute or in a court case? How was that number chosen? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative O'Neill, the concept behind having such

organizations name the top five donors was to address the issue of organizations set up by other organizations, specifically, to make these kinds independent expenditures, and sometimes such organizations can develop names which may or may not reflect the views expressed in the advertising and also are new organizations set up, specifically, to do this advocacy so it's unknown who is funding them. And so the purpose of that provision is to allow the public to know who might be funding such an organization and the language or the idea came from, I believe, there was testimony regarding the concept. I know the idea of dealing with such shell organizations was discussed at length at the public hearing and such similar language is also included in the Schumer-Van Hollen Act, which is pending before the Congress of the United States.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. So -- so if I -- if -- or perhaps when this language ends up being litigated, the aim of this section -- I guess it's 10(h)(1) -- or (h), yeah, 10(h)(1), is to deal with

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shell organizations, things that are essentially created for the purpose of being vehicles for corporate speech expression; is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative O'Neill, the answer is yes, although such organizations could be in corporate form or could be trade unions or other groups.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

But -- but in looking at the language that's before us and, again, specifically focused on (h)(1), it -- it seems as if the two types of organizations are those organizations set up as 501(c) type organizations under the Internal Revenue Code of 1986 or -- excuse me -- organized under Section 527 of the Internal Revenue Code. And so those kinds of organizations I don't know if they can be something other than a corporation. I've

only seen them in corporate form, but those organizations are the -- first of all, the corporate structure or the -- they're certified by the IRS as being valid under the Internal Revenue Code. Those are the organizations that are the -- that are mentioned here. But that what's not mentioned here is, I think, unless I've missed it or it's somewhere down below -- that there is -- and the intention is not to go, in effect, after all 501(c)(3)s but only those that appear to be been created as, in effect, front organizations. Is -- is -- that's what I want to make sure I'm clear about. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker to Representative O'Neill, the -- first, I should make it clear that the -- that the amendment refers to organizations that are tax exempt under Section 501(c), not 501(c)(3), the subsection. 501(c)(3) are educational, charitable and religious organizations, who are not permitted to participate -- who are not permitted to expend money lobbying or in politics --

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political campaigns. But there are under (c)(4) and other sections, organizations that may. So I just -- to make the record clear, the bill refers to 501(c), generally, and Section 527, which has in recent history been another way for organizations to form to politically advocate. And so the answer is with respect to the references to the Internal Revenue Code, yes, we are trying to get at the issue of shell or shadow organizations.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And I'm -- I'm really glad that I stood up and started asking these questions because in the absence of a public hearing on this to explicate that and unless it would somehow come out elsewhere. I don't believe but I would ask the question of the Representative, is there any where in this new language, something that says that the true intended target of this language and this requirement is, in effect, these shell or shadow organizations?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative O'Neill, again, I would emphasize that the public hearing contained significant discussion regarding this particular issue. Secondly, this section that we're discussing now, which I believe is at line 642 to 660, is not only directed toward those organizations that are organized under the code but adds extra requirements for those organizations.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Well, part of the reason why I think it's important for us to recognize what we're doing here -- or for me at least, is that I am on the board of directors, have been, of a 501(c) organization. And that organization may or may not, at some point in time, express itself politically. It is -- it is not something that normally derives money from contributors. It actually has a business operation that generates revenues and so that type of an organization, which has employees, conducts a

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substantial amount of business and it has been in existence for many years, on the face of it, this statute if it -- or this proposal if it becomes a statute, would apply to that organization but it sounds like from the discussion that's going on, it really would not be the type of organization to which this piece of legislation is directed. And that's -- that's the one point that I'm trying to get at if I could, through you, Mr. Speaker.

So I just want to be sure that -- that I am drawing the distinction, which as I believe the proponent of the amendment has articulated here this evening; am I correct in that? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, I would need to ask for clarification as to what distinction the gentleman is referring.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

On it's face the language before us says that if it's a 501(c) organization under the Internal Revenue Code. It's been recognized as tax exempt. It's filed necessary paperwork and received approval by the IRS as a tax exempt organization that if it engages in political speech then it must identify its top five contributors. And -- and I don't know I think we're going to run into other requirements that apply to these organizations down below.

There are some 501(c) organizations that I assume are created as shadow or shell or I use the word "front" organizations that, in fact, do not have any other purpose really than to be a vehicle for the political speech which is sought to be disclosed here.

The sources of the funding for it are sought to be disclosed. But there are other organizations that exist that fall under 501(c) that are, in fact, some type of organization that conduct activities that are meant to be ongoing and that are not just for the purpose of political front organizations but rather they are, for want of a better term, "real" organizations. And so the point is that those real organizations, may or may not have contributors, but

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the point is that they apparently are not the group that is the target, if you will, of this legislation.

The language that was given to me earlier by the proponent of the amendment was that it was the shadow or shell organizations that were the target. So I just want to be clear that if there's a 501(c) organization that is an ongoing operation; that is not a front, shell, sham, shadow, any of those kinds of words, but it's a real 501(c) organization, then it -- if it does express itself politically, is not required to disclose its top five contributors. That's what I'm trying to get at is that apparently there are some 501(c) organizations that will be required to disclose because they are shadow or shell, and then there are others that are not shadow or shell that will not be required to be making these kinds of disclosures. That's the distinction I'm drawing, through you, Mr. Speaker, is that correct?

DEPUTY SPEAKER GODFREY:

Representative Spallone. Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker to Representative O'Neill, the language of the bill does not make such a distinction.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

I realize that the language of the bill does not make that distinction, but the -- the answer to my earlier question directed to the proponent of the amendment, the answer did make such a distinction in saying that there were front or shell or shadow organizations and that they were the true intended target of this language. And I just -- and what I'm trying to get at here is, in fact, the legislative intent of this section, given that it was -- this language was never the subject of a public hearing, the only time that anyone is going to have a opportunity to try to divine the legislative intent is from the debate that we have here on the floor in the House and the debate that may or may not occur in the Senate, and I think we all know, based on our experiences with how legislative history is generated, the Senate is usually far less productive

in that regard, tending to put many matters on consent that beyond what we in the House do. So this may be the only chance and given the fact that this bill almost went to a vote without -- or the amendment, at least, without any discussion, I think it's important that we tease out what the legislative intent of this section is. So that's why I may seem to be belaboring, and I don't mean to hector the chair of the GAE committee, but I think it's important that if there's a -- an intent here that is not, perhaps, clear on the face of the bill -- or of the amendment that we make it as clear as possible in the legislative record they we're trying -- that I'm trying to create here.

So once, again, I would say is this meant to apply to all 501(c) organizations and all 527 organizations or only those that appear to be shadow or shell organizations created to be vehicles for political expression? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative O'Neill, I would begin by saying that I do agree

with the gentleman's remarks concerning the other body. And then I would add -- I would add that while the problem of identifying the funding for organizations that may be organized to make independent expenditures has been discussed by -- was discussed at the public hearing and is an issue that the language of the bill does not make a distinction, and it's not the intention to make a distinction between, so-called, shadow organizations and other organizations that may be subject to the section 501(c) and 527 of the IRS code. Because there are organizations that are set up specifically to do this kind of advocacy under Section 527 and the public may be interested in the funding sources of such an organization. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

So then the intent is not to draw a distinction between some 501(c)s or some 527s on the one hand that are just created for advocacy purposes and others that may have, in effect, legitimate or substantive purposes distinctive from advocacy; is

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that correct, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, yes. That's correct.

REP. O'NEILL (69th):

Okay. Thank you, Mr. Speaker.

And I thank the gentleman for his answer.

And then I further assume -- excuse me --

further assume that when an entity that -- going down to Number 2, the requirements of -- for disclosure, I am -- for example, it says that if there is apparently a video advertisement, there is a requirement that says that the chief executive officer or its equivalent that would apply to everybody in every 501(c) or every 527, as well, through you, Mr. Speaker, correct?

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you.

And my understanding further is that when it comes to the word "entity," that word is intended to be rather all-encompassing so that it would include, I assume, not just corporations that have a president, but, for example, the much more common, today at least, business organizational form in the form of a limited liability company; is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, the definitions sections try to encompass all corporate organizational forms, through you.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

And, specifically, is the limited liability company one of the things that's meant to be included within the definitional section? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Just a moment, Mr. Speaker. I just want to make sure that I'm accurate.

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Now, it -- in Section 2, it talks about the name of the entity's chief executive officer or equivalent with respect to a limited liability company, what is that equivalent anticipated to be?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker to Representative O'Neill, it would depend of a number of factors. A limited liability company could have an operating agreement which names a manager. It could be a managing member.

I anticipate the gentleman might suggest that sometimes there are two or more members. None of which is designated as a chief official, and in

which case the language in the bill discusses the equivalent so that would have to be determined, I believe, by the company in question.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And the chair of the GAE is most prescient in anticipating where I was going with my line of questioning and that is if you do have a limited liability company with two, three, four, five members, none of whom is, in effect, the chief operating officer in the normal sense but they're all equals, or at least on paper, they're equals to each other. Which one of them is the one that's supposed to identify him or herself as the -- the equivalent of the chief executive officer and make the announcement that's called for here. Is there a mechanism -- first of all, is it specified in the bill anywhere? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative

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O'Neill, it's not specified in the bill. I believe if all are equivalent, as members of an LLC, any of them could be the person who makes that statement. So I would suggest that it would be up to the LLC to determine which of the members are going to make that statement.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Okay. So then that any member of the LLC could be the one to do it. They are not required to all do it; is that true? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, since any member of an LLC can speak for the LLC, if they have equal ownership interest as mentioned, the answer would be, yes, any of them could, and, no, they wouldn't all have to do it.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

I believe that the other sections are essentially designed to deal with applying the same concept that we're talking about here to other forms of the media, whether it's video, or print or radio advertising or the Internet and that sort of thing so I'm assuming that the -- all of the, in effect, rules that we've talked about earlier with respect to these types of organizations and to the requirement for the amount of disclosure that's called for would be applicable equally to, though, in those venues. In other words, in Sections 3 and 4, as well, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, yes. There's slight variations on exactly what has to be done considering the medium involved, but the concepts of disclosure and attribution are the same throughout and there are references to the types of organizations we've discussed throughout the remaining sections.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

I appreciate the gentleman's answers. I think it was important, and I hope that it will not, perhaps, be necessary, but I fear that it will be in the event of litigation for the courts to turn to the legislative record and, hopefully, they will find some reasonable amount of clarity in the conversations that we have had this evening on this subject.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentleman from South Windsor,  
Representative Aman.

REP. AMAN (14th):

Good evening, Mr. Speaker.

The previous discussion just brought up something that I would like to have clarified, again, on the top five contributors. And through you, Mr. Speaker, I do have a question for the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Please proceed, sir.

REP. AMAN (14th):

Yes. When it says "the top five contributors," if you have an organization that you say that each member of the organization puts in exactly the same amount of money. You end of having 100 members of the organization. Each of them put in the same \$100 or \$1,000, doesn't make any difference. And you're suppose to list the top five contributors. When we talked about the limited liability companies, you said that any one of the partners could be listed. In this case, can you mix and match and decide who the five contributors do you list, or what do you do when you have more than five top contributors who happen to all contribute exactly the same amount? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Aman, there's a distinction within the question in that if an LLC were to make an independent expenditure that LLC -- let me back up.

The only time that an organization would have

to list its top five contributors were if it falls under those sections of the IRS code that are captured in the bill. So -- and if there were equal amounts beyond five -- and I've thought about this a little bit, I believe that the organization would simply list five of them and the public could find out more through the -- through the filing.

DEPUTY SPEAKER GODFREY:

Representative Aman.

REP. AMAN (14th):

I thank him for his answer. I did -- I was just trying to use the limited liability corporation to show that in that case you had more than one person in charge and anyone could be chosen. I think the same logic is being put forward by the proponent on the 501(c) corporations that if you have a group of individuals or contributors that do have to be listed, they can pick, arbitrarily, which of the five to put down. I don't know if that is a good law or a bad law but it does seem to leave the possibility of hiding who the top -- or who the five -- or who the entire group of contributors actually are within -- within this 501(c) corporation. But that was a question that I have,

and I thank the proponent for the answer.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Hetherington, for the second time.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker, and thank you for the second time.

Briefly, if I may address several questions to the proponent, through you, Mr. Speaker. I asked these questions of the cochair of the Government, Administration Elections Committee on which I serve as ranking member. And I know that whatever is drafted by our Chairman is very well thought out and I need to cut -- ask a couple of rather basic questions on this.

Through you, Mr. Speaker, how does this -- how does this address statements by entities which address issues rather than endorsing candidates or soliciting support for political parties. For example, if -- for example, hypothetical, if CL&P runs an ad and says, We urge everybody to oppose anything that would put an additional charge on an electric rates. How is that treated under this --

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this disclosure law? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Hetherington, the case in question that Citizens United versus FEC, which -- which I mentioned at the outset of the debate, concerned advocacy by corporations and unions and other organizations, specifically, made to promote the election or defeat of a candidate for office and so this bill is designed to address that issue. And so you'll see the reference is frequently made to a message using just the vernacular there that promotes the election or defeat of any candidate for nomination or election or promotes or opposes any political party or solicits funds to benefit any political party or committee.

And that is repeated throughout, through you.

DEPUTY SPEAKER GODFREY:

Representative Hetherington.

REP. HETHERINGTON (125th):

I thank you.

One further question, how does this impact the

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referendum question, which I see it is dealt with in Section 9. Would the proponent, please, briefly say how this impacts the referendum issue, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Hetherington, in -- in recognition of -- of some of the language regarding political speech in the Citizens United case, the -- the bill actually makes things a little easier for those who want to advocate for the defeat or passage of a referendum by -- in Section 4, for example, setting \$1,000 threshold and in Section 9, the gentleman referenced, removes -- the Section 9 removes the requirement for reporting of referendum expenditures -- well, that one's technical. That moves it -- it's showing that it was moved to Section 9-612.

But no reporting is required on a referendum unless you raise and spend over \$1,000 and that is some relief to those organizations that do that.

DEPUTY SPEAKER GODFREY:

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Representative Hetherington.

REP. HETHERINGTON (125th):

Final question, thank you.

Through you, Mr. Speaker, so for the purposes of this disclosure that's set forth in this bill -- this amendment to become the bill, unions, 501(c)(3) organizations, business corporations are treated substantially the same. Is that a fair generalization? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Yes, through you, Mr. Speaker, to Representative Hetherington. I would just add that 501(c)(3)s, generally, are not involved in political activities, but other 501(c)s organizations are, just for the record.

REP. HETHERINGTON (125th):

Right.

REP. SPALLONE (36th):

But I would -- I would state that just as such organizations were treated equally in the decision, and were treated the same way in the federal law that was struck down so they are treated in this

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bill.

DEPUTY SPEAKER GODFREY:

Representative Hetherington.

REP. HETHERINGTON (125th):

I thank the distinguished chairman and thank you, Mr. Speaker, for your indulgence my question for the second time. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on House Amendment Schedule "A"? Will you remark further on House Amendment Schedule "A"? If not, staff and guests please come to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting House Amendment schedule "A" by roll call. Members to the chamber.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the machine will be locked. The Clerk will take a tally, and the Clerk will announce the tally.

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THE CLERK:

House Amendment "A" for House Bill 5471.

Total Number Voting 140

Necessary for Adoption 71

Those voting Yea 137

Those voting Nay 3

Those absent and not voting 11

DEPUTY SPEAKER GODFREY:

House "A" is passed.

Will you remark on the bill as amended?

The gentleman from Naugatuck, Representative

Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

A few questions, through you, to the proponent.

DEPUTY SPEAKER GODFREY:

Please frame your questions, sir.

And Representative Spallone, prepare yourself.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

In the parts of the bill that refer to a disclaimer from the chief executive officer that the top five contributors to the organization responsible are -- et cetera, is it anticipated that

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in a paid robocall, let's say, that the organization would have to have in that telephone message the language --

DEPUTY SPEAKER GODFREY:

Excuse me, Representative Labriola.

Getting a little chatty in here folks. Please take your conversations outside. Thank you very much.

Representative Labriola, you still have the floor, sir.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

Is it anticipated that in that same telephone message, which may be, say, 30 seconds long, that the following words, "the top five contributors to the organization responsible for this telephone call are" and then the five persons or entities have to be then listed in that telephone message? Through you.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Labriola, a distinguished member of the GAE

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Committee, looking at lines 726 through 729, yes.

DEPUTY SPEAKER GODFREY:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you. And similarly, in radio or Internet advertising, audio advertising, is it anticipated -- I guess, in the back in line 703, et seq., that similarly in that same radio ad, the language "the top five contributors to the organization responsible for this advertisement are" and then those entities or individuals' names would be listed in the radio ad that's paid for. Through you.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, in the event of a radio advertisement, the gentleman is correct, except that if a radio advertisement is 30 seconds in duration or shorter, the audio message would provide a website address that lists the contributors.

DEPUTY SPEAKER GODFREY:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you.

And, you know, having just read this now for the first time tonight, is it -- because it was just put on our desk for the first time tonight -- is it anticipated that a report has to be filed within 48 hours if the advertisement is within 90 days of the election or 24 hours -- 48 hours if it's more than 90 days before the election or primary, and 24 hours if it's within the 90 days before the primary or election? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Labriola, the filing is made within those time frames within the -- after the expenditure is made.

DEPUTY SPEAKER GODFREY:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

So this -- any entity or committee that spends more than \$1,000, as soon as it's spent, they have -- if it's within 90 days of the election or primary, they have to make sure this report is filed

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within 24 hours. Even if it was spent on a Friday or on a Saturday, they've got to make sure that the report is filed or it would be a violation of this law as written? Through you.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, yes. And the filing is required to be electronic.

DEPUTY SPEAKER GODFREY:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

Now, when it said in this bill that any expenditure over \$1,000, all these different provisions are triggered. What's to prevent an entity from breaking out little subgroups and spending \$900 at a time and, thereby, not having to conform with these provisions? Through you, Mr. speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, the gentleman does

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demonstrate some of the challenges in framing campaign finance laws; however, it would be very difficult to manage that and certainly difficult to purchase electronic media advertising in increments of less than \$1,000.

DEPUTY SPEAKER GODFREY:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

I'm not going to belabor this with more questions, but I think even just a few questions have highlighted that there are some problems with this. I think it's -- it's been a rush to just throw something together at the last minute. Most of these key provisions have not been vetted through public hearing, through the regular committee process.

I also would like to associate myself with the remarks of the ranking member on the GAE committee, Representative Hetherington, and, specifically, that I disagree with the characterization of what the import of the Citizens United case meant and that somehow out of nowhere these rights, the free speech rights, that were referred to in the Citizens United

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decision somehow overturned 100 years of settled law back to Teddy Roosevelt. I would assert that it was more an evolution of well-established free speech rights that go back to the Bill of Rights.

And also I would like to agree with Representative Hetherington that that's not correct or fair or appropriate to say that the Citizens United decision was somehow a corrupt decision when a majority of the Supreme Court -- a Supreme Court composed of members appointed by both Democrat and Republican presidents, issued this decision, and, in fact, it's the law of the land.

And so because this -- I don't think was really well-thought out and there are numerous loopholes and problems with this, which is really just a series of onerous regulations and requirements, that is why I voted against the amendment, and that's why I will vote against the bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentleman from East Woodstock,  
Representative Alberts.

REP. ALBERTS (50th):

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Thank you, Mr. Speaker.

A question, if I may, to the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Please frame your question, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

There are several references in the bill that's now before us, amended bill, that's now before us, that refer to language that's specifically to be used in the form of an audio message. For example, lines 703 through 704, have the phrase "the top five contributors to the organization responsible for the advertisement are" to be followed by those top five contributors. I'm envisioning that many people do campaigns in different parts of the state and may be doing Spanish language campaigns -- campaigns or participating in advertisement via that mechanism. Does this phrasing have to be in English or can it be in a different language? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE (36th):

Through you, Mr. Speaker, to Representative Alberts, first, I want to make it clear in response to the question that this disclaimer would only apply in circumstances where you have the organization defined in the bill and these are currently -- since the Supreme Court decision, unregulated entities. So I want to make that clear.

It's not every candidate or anything like that so that people understand that. That's very important to bear in mind.

Secondly, if the advertisement is in Spanish, then I would imagine that the disclaimer is in Spanish. And if the advertisement is in English, then I would imagine that the disclaimer would be in English just as anyone running an advertisement under current law would -- would do.

DEPUTY SPEAKER GODFREY:

Representative Alberts.

REP. ALBERTS (50th):

I thank you, Mr. Speaker.

I thank the gentleman for his response.

DEPUTY SPEAKER GODFREY:

Representative O'Brien.

REP. O'BRIEN (24th):

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Thank you, Mr. Speaker.

The Clerk has an amendment LCO 5045. I would like to ask the amendment be called, and I be given leave to summarize.

DEPUTY SPEAKER GODFREY:

Do you have that, Nick?

The Clerk is not in possession of such an amendment, sir.

REP. O'BRIEN (24th):

Okay. Well, I was hoping to be able introduce an amendment, Mr. Speaker, that would have the effect of striking Sections 7 and 8 of the bill, which are the sections that have the effect of making the laws of our state allow corporate contributions and union contributions to be legal independently.

I think that that would have made the bill much better, and it's too bad that the amendment isn't ready.

I think that it's important to keep in mind what this Supreme Court decision means for our country. It says that contri -- that corporations, legal fictions have the same rights that the Constitution is supposed to reserve for human

beings, for people, like us, average every day people. Not legal fictions that have the right to use unlimited quantities of money to buy control of elections.

And let me clarify something that has -- has raised the objections from some of many friends on the other side of the aisle. When I talk about corruption of the political process, I'm talking about the effect of the decision on our democracy, the ability of large corporations to dump money on the election process. The ability of corporations to control our democracy that is supposed to be something that average every day people have to express their views, to make sure that their opinions are what count here in this hall and the Senate upstairs and the federal government. These are the things that -- that the laws of our State should protect. And I do hope that the laws stay as they are that corporate contributions are not allowed. And that's why I will continue to vote against this bill, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the bill as amended?

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Will you remark further on the bill as amended? If not, staff and guests please come to the well of the house. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber please.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

And the Clerk will announce the tally.

THE CLERK:

House Bill 5471, as amended, by House "A."

Total Number Voting 141

Necessary for Passage 71

Those voting Yea 131

Those voting Nay 10

Those absent and not voting 10

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

The House will stand at ease.

(Chamber at ease.)

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**GOVERNMENT  
ADMINISTRATION  
AND ELECTIONS  
PART 3  
700 - 1055**

**2010**

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AND ELECTIONS COMMITTEE

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If not, thank you. Thank you for coming in today.

ERIC TURNER: Thank you.

REP. SPALLONE: Senator Boucher, followed by Al Lenge.

A VOICE: [Inaudible.]

REP. SPALLONE: Okay, Albert Lenge. Good morning, welcome.

ALBERT LENGE: Should I start again?

Good morning, Chairpersons Slossberg, Spallone, Ranking Member Hetherington and distinguished members of the committee, my name is Al Lenge, and I'm the executive director/general counsel to the State Elections Enforcement Commission, and I rise on behalf of the commissioned proposal, House Bill 5471, which has been entitled AN ACT CONCERNING THE PROVISIONS AND THE POWERS AND DUTIES OF THE STATE ELECTIONS ENFORCEMENT COMMISSION, the Integrity of Elections and the Revision to the CEP, and how -- I'm sorry, that's 5428, and 5471, AN ACT CONCERNING INDEPENDENT EXPENDITURES, a vital piece of legislation intended to bring about Connecticut's campaign finance laws into line with the Citizens' United case.

HB5470

Your committee has rightly propelled campaign finance to the top of your agenda for this legislative session, and I can't stress enough the importance of a quick response to both the Green Party versus Garfield ruling, federal court ruling, and the Citizens' United ruling. Working with you, I have confidence that we can find solutions.

These are two good bills. We have a five-page summary that we've produced that's submitted. I won't repeat it all, but I'll first address 5471.

Whatever your political stripe or personal convictions, the Supreme Court's decision in Citizens' United versus FEC is a game-changer. It represents one of those rare high-court decisions that will likely have longstanding and far-reaching consequences to our society.

The five-four decision basically declared that the First Amendment guarantees free speech to corporations, labor unions, all forms of organizations and entities, and that the federal government had no authority to require them to be -- first become political committees.

The court did say that the law could require a disclosure regime by requiring that financial disclosures [inaudible] for independent expenditures be made, and that attributions be required on all those independent expenditures. That's what this bill supports.

In Section 1, the bill amends the definitions of Chapter 155 by defining an entity. A new designation that includes specific forms of business models, such as corporations, partnerships and other enumerated corporate forms of Connecticut statutes, as well as labor unions.

I -- I might add, the summary of the -- of the legislative research, the principal analyst, Kristin Sullivan, and Terrence Adams did a great job on the summary of the Citizens' United case, which you should all read.

So we've defined "entity," and it primarily focuses on corporations under Connecticut law, and other states' laws, and labor unions and other organizations.

Section 6 of the bill requires individuals and entities and committees acting alone who make independent expenditures --

A VOICE: (Inaudible.)

ALBERT LENGE: Okay. Thank you very much.

REP. SPALLONE: You know, take another three or four minutes.

ALBERT LENGE: Okay.

REP. SPALLONE: And then we'll have a lot of questions anyway.

ALBERT LENGE: -- valued at more than a thousand dollars in the aggregate to follow an independent expenditure report.

That's one of the other -- you know, the State Elections Enforcement Commission has many projects, and one of its overarching projects is as a transparency and disclosure agency. That disclosure will also support the other project, the Citizen Election Program, by disclosing to the public and to competing candidates, campaigns what kind of independent expenditures are made to promote the election or defeat of their candidacy or which promote the defeat of the candidacy.

So that's needed in order to realize whether or not supplemental expenditures are required to be made under the CEP program.

Section 10 of the bill will broaden the attribution requirements. Entities that make independent expenditures will not only have to identify any message that they create, but the CEO, the chief executive officer, or functional equivalent, will have to put their name on the attribution and stand by the ad.

Like candidates, CEOs would be required to provide their voice and -- and image to any televised or Internet video message, along with a statement that they approve content of the message, and that it was made independent of any candidate or party.

We redefine, consistent with the statute, the definition of "independent expenditure" and create a rebuttable presumption when -- under certain facts and circumstances when it's alleged that there is a coordinated expenditure.

I think we're anticipating some increase this election cycle but in the future a tremendous increase in these independent expenditures, so I implore you to consider a disclosure regime.

I'd also like to speak in favor of House Bill 5428, which combines the proposals that the commission asks the committee to raise.

The bill amends 9-7b of the General Statutes to obtain SEEC jurisdiction over the new optical scan voting machines, which are codified in regulations promulgated by the Secretary of the State, instead of state statute.

It also clarifies that Registrars of Voters, like town clerks, can file complaints with the

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cycle of 2008, there were over 9,000 answered inquiries, not including written responses to declaratory -- such as declaratory rulings, advisory opinions and opinions of counsel.

Even when the CEP isn't active, the compliance unit gets -- five lawyers gets as many as 130 calls per week.

Overall, CSU staff made approximately 11,775 telephone, email, mail and in-person contacts with candidates and their campaigns during the 2008 cycle.

So you can imagine the difficulty in giving written responses to oral requests with that kind of volume and with five lawyers.

REP. SPALLONE: Thank you very much for your testimony this morning, and there may be some questions for you.

Representative O'Brien.

REP. O'BRIEN: Thank you. And I appreciate your effort to be able to -- to bring in what would be missing in the wake of the Citizens' United decision. Certainly one of the worst decisions the Supreme Court has ever made, and something that undermines not just the integrity of campaign finance law but democracy itself.

HB5471

That said, the -- I think that you've made a good stab at -- at trying to craft law to -- to bring disclosure of these -- these unlimited corporate expenditures into the -- into the light.

There's a little more work, I think, we need to do, however. I mean, what would be your

ideas -- one of the -- the central problems, of course, is that many -- many corporate --

It's very easy to form a corporate entity which can serve as a strawman organization, be the front for the political expenditures, while concealing the true identity of the -- of -- of who is, in fact, spending the money to -- to make the political statements.

How in your mind should we -- should we try and get at that so that the public can be informed of really what corporations are really behind making these unlimited expenditures?

ALBERT LENGE: Well, there is a registration requirement with the Secretary of the State, or other -- throughout the country other filing repositories, so there's a disclosure regime there.

I've heard -- that's one answer. I mean, at least with those types of entities. And we focus on corporate entities and organizations. I mean, there are entities such as voluntary associations of persons under 5276 where there's no filing requirement, and that's left to the requirement of forming a committee.

So it's where there is a -- already a disclosure regime by way of registration with a filing repository, such as the Secretary of the State, that we're allowing or proposing the allowance of an independent expenditure.

Just understand that. The definition of "entity" is narrower, perhaps, than Citizens' United espouses in its -- in its logic.

REP. O'BRIEN: Now or --

ALBERT LENGE: And the difficulty with the voluntary association is just that type of thing. You and I could form a voluntary association, contribute to it and do it for the purpose of an independent expenditure, and we're keeping that, as you must form a committee.

REP. O'BRIEN: Well, one of the other corollaries in law is -- is a totally different area of -- of law, and it's in tax law, where some states treat a family of corporations that are truly one entity, even though they actually exist in the form of many, potentially even thousands, of corporate entities as one -- as one thing.

And it sounds like -- like we can try and refine this a little bit so that it's clear that that's what's meant under the law. And somebody creates a shell corporation, Citizens for Good Stuff, you know, and puts money into there that can then be used to buy TV time to be able to influence elections, that it is -- if it's the Corporation X behind the scenes that's really doing the spending, the law in fact says that Corporation X has to be the one that says we're the ones that spent the money, right?

ALBERT LENGE: I wonder if our existing law addresses that, in that the definition of "business entity" includes a controlled group of corporations, as defined under the IRS, Internal Revenue, code.

So we do have a provision in 9601 as to business entities that are a controlled group of corporations, and it says that they shall be treated as a single business entity.

REP. O'BRIEN: Would that be interpret -- if we did something like this, would that be the interpretation of the commission?

ALBERT LENGE: Yes.

REP. O'BRIEN: Great. Thank you.

REP. SPALLONE: Thank you, Representative O'Brien.

Madam Chair?

SENATOR SLOSSBERG: Thank you. Good morning.

ALBERT LENGE: Good morning.

SENATOR SLOSSBERG: I just wanted to clarify a number of questions we've gotten in the building, so I'd just appreciate you helping us out just to have it on our public record.

Is it -- is it your opinion that the Citizens' United affects the -- our ban on lobbyists at all?

ALBERT LENGE: No. Lobbyists, through their committees, can make independent expenditures. You know, the ban on lobbyists has to do with making contributions or expenditures to campaign committees. They can make independent expenditures under current Connecticut law.

SENATOR SLOSSBERG: Okay.

So this -- but the Citizens' United case itself doesn't really affect the lobbyist law, the law as we have it right now, as it pertains to lobbyists and what they can and cannot do.

ALBERT LENGE: In my opinion, no.

SENATOR SLOSSBERG: Okay.

One of the questions that I -- that I had was after this case, the corporation is still -- even though a corporation now can give out of their treasury, are they still bound by the same contribution limits, though?

You know, even if you have a -- a candidate who's participating in CEP or not participating, we still have contribution limits for what -- what a candidate can actually receive.

Are they still bound by those?

ALBERT LENGE: Well, under current law, a corporation may not make a contribution to a candidate's campaign committee. So they would be an illegal source for contributions to committees. I don't know if I'm being responsive to your question.

But out of their treasury, there is no limit. Under Citizens' United, there is under Connecticut law. They're permitted under Connecticut law from making independent expenditures that advocate election or --

SENATOR SLOSSBERG: I'm not talking about independent expenditures.

ALBERT LENGE: Okay.

SENATOR SLOSSBERG: I'm looking right on the front page of your testimony. It says, "Citizens' United nullified any restriction on corporate independent expenditures that advocated on behalf of or against a political candidate or

party."

I understand that "independent expenditure" piece. What I want to try to clarify, because this keeps coming up in discussions that I'm having with our legislatures -- legislators, this does not change a candidate's ability --

In other words -- let me ask it a different way, in a more realistic sense.

Some company out there can't now just take \$10,000 and drop it into a candidate's committee; is that correct?

ALBERT LENGE: That's right.

SENATOR SLOSSBERG: Okay.

And Citizens' United doesn't change that. Citizens' United changes the law with regard to independent expenditures and advertising and things like that, as opposed to just making contributions directly to candidate committees.

ALBERT LENGE: That's correct.

SENATOR SLOSSBERG: Okay. Thank you.

That's -- that's what I was just trying to clarify for people.

ALBERT LENGE: Okay.

SENATOR SLOSSBERG: I had one other question. With regard to the -- you mentioned the difficulty with having written requests to oral questions.

ALBERT LENGE: Yes.

HB5470

SENATOR SLOSSBERG: We can do a little bit of improvement.

Thank you, Mr. Chairman. I have no further questions.

ALBERT LENGE: Thank you very much, Senator.

REP. SPALLONE: Thank you.

Representative Hetherington.

REP. HETHERINGTON: Thank you. Welcome, Mr. Lenge, nice to see you.

ALBERT LENGE: Thank you.

REP. HETHERINGTON: At the risk of being redundant, I just want to go back to Citizens' Election for a minute -- Citizens' United. What did I say, Citizens' --

HB5471

SENATOR SLOSSBERG: Election.

REP. HETHERINGTON: Okay. Thank you.

A VOICE: (Inaudible.)

REP. HETHERINGTON: As I read that decision, it simply says -- I mean, it is restricted to saying that a domestic corporation can finance from it's own funds a communication, whether it be in the newspaper or on television or whatever, which it could not have done before.

It has nothing to do with the direct financing by way of contribution to a particular candidate.

Do you agree with that?

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ALBERT LENGE: I agree with that.

REP. HETHERINGTON: Okay. That's what I -- thank  
you.

ALBERT LENGE: Thank you.

REP. HETHERINGTON: Thank you, Madam Chair.

SENATOR SLOSSBERG: You're welcome.

REP. SPALLONE: Thank you.

Any further questions? If not, we look  
forward to working with you on these issues.  
Appreciate it.

Next speaker is Secretary of the State, Susan  
Bysiewicz.

SECRETARY OF STATE SUSAN BYSIEWICZ: Well, good  
morning, members of the committee.

REP. SPALLONE: Good morning.

SECRETARY OF STATE SUSAN BYSIEWICZ: It's nice to  
be here again, and I am here today to speak  
about and to speak in support of several bills  
that our office respectfully asks that you  
consider favorably.

The first goes to certain revisions to our  
election statute, that's 5441. It adjusts the  
election calendar slightly to accommodate  
optical scan machines.

It also eliminates the need to print extra  
copies of voters lists and instead allows them  
to be kept in electronic format.

SB389

SB363

HB5442

HB5428

here.

And Karen Hobart Flynn, followed by Luther Weeks, followed by Christine Horrigan.

KAREN HOBART FLYNN: Good afternoon, Senator Slossberg, Representative Spallone, Representative O'Brien. Pleased to be here today to testify in support of Senate Bill 421, House Bill 5428 and 5471.

I have submitted written testimony, so I'm just going to make a few points.

First, I know that you -- and I'm thankful that you had a hearing a couple of weeks ago to talk about fixes to the Citizens Election Program. I urge you to still consider some of the provisions contained in Senate Bill 421, because they -- they are the work of this committee, the caucuses, State Elections Enforcement and others to help strengthen the program to reduce administrative burdens on candidates and treasurers and also do some common sense changes that I think are important.

And in particular, setting a clear date to determine whether a candidate has opposition or not, lengthening the time for the State Elections Enforcement Commission to review state candidate applications for statewide candidates, because there is the -- the sheer volume of reporting requires a little bit more time, and also to look at mandatory electronic filing.

I'm going to talk a little bit more today about Raised Bill 5471, which is a draft response to Citizens' United, which I think is a terrific start.

We're very pleased to see the expansion of the definition of the kinds of entities that can engage in this kind of independent expenditure, and we think it's very important to expand that.

On disclosure, we think that this -- that this bill takes an important first step by requiring independent expenditures valued at a -- more than a thousand dollars to be reported.

We support this threshold, but we believe to ensure real transparency, these donations should be reported within 24 hours of the expenditures so candidates and the public know that these are coming.

We also think that it should -- that entities that make these expenditures should report them electronically so it's disclosed to the public in realtime.

We also think that we need to take a look at groups that come together and -- and come together, and we see a lot of these kind of shell groups that come together and say, you know, people united for responsible government or healthcare and collect contributions from a number of entities. We think it's important to require that they disclose who their donors are so that you can have a real sense of who is making the expenditure.

And in -- and the Stand by Your Ad provision I think could be expanded to include -- and we're seeing some legislation offered at the federal level, that you not only put the CEO of these kinds of groups in the ad, but perhaps the top three donors so that you have

a better sense of who's funding those kinds of ads.

And then in conclusion, I think the language that -- that really clarifies what's considered coordination is extraordinarily important to do, and so that we are ensuring that independent expenditures are truly independent.

REP. SPALLONE: Thank you very much.

Did you have any -- I know your time expired. Did you have anything further in your testimony you really wanted to highlight before we move to questions?

KAREN HOBART FLYNN: No, those are the main points that -- I'm happy to talk about them more if you have any questions.

REP. SPALLONE: Senator Slossberg has some questions.

SENATOR SLOSSBERG: Thank you. I spilled my coffee. Thank you for being here, Karen. I appreciate it.

I was -- I like your suggestion about how to deal with shell organizations, and I think that Representative O'Brien raised it earlier, and I had written similar notes as along the lines, when someone -- you know, that they have to disclose the donors at a certain threshold, whatever that may be, which I think we can continue to work on but make this much more workable.

I'm wondering in your -- in your position, are you aware of any other states that are looking at similar legislation dealing with the

Citizens' United case and what are they doing?

KAREN HOBART FLYNN: Yes.

SENATOR SLOSSBERG: And has anybody gotten beyond where we are right now?

KAREN HOBART FLYNN: Yes. And, you know, I believe -- say there are a couple of states -- Washington state has something on their statutes for independent expenditures requiring the top five donors to be -- to be listed when they file their independent expenditures.

I mean, I will say that -- that if you look at independent expenditure reporting among the states, I think 37 states have some kind of requirement. Only five are deemed to be anywhere near appropriate.

And so we're seeing a number of states looking at increasing independent expenditure reporting requirements. We're looking at many that are talking about mandatory electronic filing, more reports of donors.

Maryland has -- is looking at both increased disclosure, but they're also looking at shareholder reforms for corporations that are chartered in their state that they are -- that they require shareholder votes to approve political expenditures, which, you know, we're going to see shareholder reform at the federal level. I think that it's something to take a look at.

The challenge is that I think, you know, there are not many corporations that will engage in this kind of thing that are chartered through an individual state.

And so I think a federal solution is probably a stronger solution, although it's something definitely worth exploring.

SENATOR SLOSSBERG: Thank you very much for that. I appreciate it. Thank you, Mr. --

KAREN HOBART FLYNN: And I'm happy to share language -- I've been collecting language of states that are drafting this, so I can -- I can share that with the committee --

SENATOR SLOSSBERG: Sure.

KAREN HOBART FLYNN: -- as we gather it.

And I also -- the federal response by Senator Schumer and Van Hollen, the language I'm told will be available next week that looks at many of these things, including their coordination language, and I can share that with the committee as well.

SENATOR SLOSSBERG: That will be very helpful, and we would appreciate it. We're going to be continuing to work on this issue, I'm sure, and hopefully we'll get something passed for this election cycle.

KAREN HOBART FLYNN: Terrific.

SENATOR SLOSSBERG: So I thank you.

REP. SPALLONE: Thank you very much for your testimony.

Representative O'Brien.

REP. O'BRIEN: Thank you. I appreciate your testimony on this very important topic.

And we've prob -- I'm thinking about what you suggested with the top three contributors and --

KAREN HOBART FLYNN: And the Stand by Your Ad?

REP. O'BRIEN: Yes.

Part of what I'm -- what I'm worried about with this is that it ends up being a very murky world where there's no contributor per se in the same way that there would be for a political committee, a PAC or whatnot.

Perhaps a way of approaching it would be to simply say that if there is a corporate entity in any way involved with an amount, pick a threshold amount, say a thousand dollars, that they have to be in the "paid for by" in whatever ad is produced.

Would that be something that -- would that be an approach that you think would be workable?

KAREN HOBART FLYNN: I think it -- I think it could -- you know, really we're dealing -- if, if --

If we're dealing with a corporation, then, you know, having their CEO make sense -- it's just that we see at the federal level and at states that have allowed, you know, sort of unlimited spending, what we see is many -- many groups contributing to an entity, and -- and oftentimes you'll find that there are -- they'll say -- you know, there's an example from California, which may not be the best example, but it's Californians For a Better Government which billed itself as a coalition of firefighters, deputy sheriffs, teachers, homebuilders, and developers and really 80

percent of the money came from two people.

And so, you know, if you listed, you know, the top three or five, I do think that you could get a real sense of, you know, who's really paying for those ads.

I think that the challenge with ads, if it's TV, you know, how do you get that so that somebody could read it?

Print ads, you can add a little bit more, but if you go down a thousand dollars, we could end up with lots of donors.

REP. O'BRIEN: And that would end up, that -- well, I'm trying to figure out how to capture this, and in many ways it's some of the weakness -- it's why the ban would have been a much better thing to keep on the books, rather than trying to deal with this --

KAREN HOBART FLYNN: That's exactly right.

REP. O'BRIEN: And if the --

KAREN HOBART FLYNN: And the Supreme Court's wrong on that, but...

REP. O'BRIEN: I agree.

REP. O'BRIEN: We'll deal with that -- we'll deal with that another time.

KAREN HOBART FLYNN: Yes.

REP. O'BRIEN: It's not an issue I think we should let lie either.

KAREN HOBART FLYNN: That's right.

REP. O'BRIEN: But the -- perhaps approaching it by making the ad actually list the amount of money that the entity -- so that the public can see in the ad, whether it's a TV ad or print ad or whatever, that they actually have to list the amount of money that the different corporate entities contributed to --

KAREN HOBART FLYNN: Right.

REP. O'BRIEN: To whatever entity did do the spending.

KAREN HOBART FLYNN: The -- there's one other thing that we also have to keep an eye on.

There are many committees that will -- and there's an example of a group, the American Issues Project, that was involved in doing independent expenditures in 2008, and they -- they basically formed into three different groups in the course of one year. They just changed their name.

So we may need to look at a definition that looks at their major -- a major purpose test of what they're engaged in, because if you just keep shifting your name, your -- and your donors are all the same, you're not -- you know, you're not three different entities, really. You're the same entity shifting your name to try and elude people so they don't know who's really engaged in these kind of independent expenditures.

REP. O'BRIEN: Right.

Another area where it's been pretty well accepted when it comes to individual contributions is limiting -- limiting or banning contributions from -- from sources --

from foreign countries.

And particularly as we talk about corporate -- corporate expenditures to influence elections, expenditures from foreign corporations, they don't even necessarily need to be from individuals who live in foreign corporations.

They can be all sorts of interests that we don't necessarily want --

KAREN HOBART FLYNN: Right.

REP. O'BRIEN: -- dumping money into our political process.

Has your organization given any thought to the way we can ban or limit those?

KAREN HOBART FLYNN: Yes.

And -- and actually, we support -- this is part of the Schumer-Van Hollen package that they're going to be working on at the federal level. And, you know, we could also provide that language for here, because I think it is very important to do.

And, you know, widespread support for that across the board, republicans and democrats.

REP. O'BRIEN: I think we ought to -- for the corporate entity that does the spending, I think really the burden is to demonstrate that the money that they're putting in doesn't come from entities that might -- from foreign sources.

KAREN HOBART FLYNN: Uh-huh.

REP. O'BRIEN: I mean, I think we need to put the

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burden on them to document and disclose that it is all from domestic sources before they're allowed to do the spending.

KAREN HOBART FLYNN: Right.

Just as elections enforcement also shifts the burden to these entities to prove that what they're doing is truly independent, I think both are very important. Because in this new era, we're going to see lots of this kind of spending.

REP. O'BRIEN: Well, in another area where things from a legal standpoint get kind of murky is the -- is the delineation between an issue ad and a political ad.

There are -- right now, if somebody -- if a corporate entity does something, then they can call it an issue ad, even if -- even if they are saying in effect don't vote for this person, they can call it -- they can still get away with calling it an issue ad and circumvent the rules governing -- governing political expenditures.

KAREN HOBART FLYNN: Uh-huh.

REP. O'BRIEN: Perhaps it's time that we extend all of this -- all of these disclosures anyway fully to corporate expenditures on issue ads as well so they have to disclose those.

KAREN HOBART FLYNN: Right.

And, you know, because I'm -- I'm not positive that we could use time limits any longer, you know, it would be interesting to see what attorneys have to say about -- because, you know, if it runs during the course of the

legislative session, you consider it an issue ad. And then after the legislation -- the legislative session is adjourned, is it considered -- you know, would you need to, you know -- well, then there's special elections that could come during that time.

I think it is -- I think it is tricky to figure out the time, and maybe we do need to move to just everybody reporting, you know, that kind of spending.

REP. O'BRIEN: And I think it would be -- I think we can if we make it so that an individual person -- a reasonable standard for what somebody might spend --

We don't want to create a situation where people have to, like, report if they, like, print up a bunch of leaflets at Kinko's --

KAREN HOBART FLYNN: Right.

REP. O'BRIEN: -- on an issue before the legislature or Congress, for that matter.

But -- but if we're talking about ad money thresholds where it's very clear that there's -- that there's special interests involved in bringing it together, then that's -- then that's where I think disclosure -- definitely the public should have a right to know of who's dumping money into this political spending.

KAREN HOBART FLYNN: Right, right.

And we need to do it in realtime, and not only with electronic filing, but in a database that is -- you know, so that it's downloadable, you can take a look at it, you can search it.

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Because I think candidacies know this, the public should know, reporters should be able to access and groups that want to study this, like ours -- because if we want to make the case that these kinds of expenditures could be corrupting, as we've seen in our states, we need to collect that data --

REP. O'BRIEN: Thank you.

KAREN HOBART FLYNN: -- for the courts.

REP. O'BRIEN: Yes. Thank you.

KAREN HOBART FLYNN: Thank you.

REP. SPALLONE: Okay.

Anyone else? Any questions? If not, thank you for your testimony.

KAREN HOBART FLYNN: Thank you.

REP. SPALLONE: Appreciate it.

Luther Weeks, followed by Christine Horrigan.

Good afternoon.

LUTHER WEEKS: Good afternoon.

Chairs and members of the committee, my name is Luther Weeks. I am executive director of Connecticut Voters Count and the Connecticut Citizens Election Audit Coalition.

I have personally observed 25 post-election audits, and I'm speaking today for Connecticut Voters Count.

9B364

ballot -- which votes the machine should have counted, but it wasn't much a judgment in most cases that it was a definite overvote, because there were too many circles to, you know, to count it.

So it's very -- but one of those -- you could actually go to court on one of those ballots, because I would have classified it as an overvote, as the officials did, but, boy, it was hard to say what it was.

REP. SPALLONE: Thank you very much for that answer.

Any questions for Mr. Weeks? If not, we are appreciate your testimony today.

LUTHER WEEKS: Thank you.

REP. SPALLONE: Christine Horrigan is the last person signed up to testify today.

Welcome.

CHRISTINE HORRIGAN: Thank you, and I will try to be brief.

My name is Christine Horrigan. I am the government director of the League of Women Voters, and on behalf of the League, I would like to thank you for the opportunity to comment on the bills before you today.

We have submitted written comments on six different bills. I'm going to confine my spoken comments -- my oral comments to S.B. 364, AN ACT CONCERNING POST-ELECTION AUDITS, and then will just point out to you our priorities in the other bills.

SB421

HB5428

HB5441

HB5442

HB5471

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The League believes that voting systems must be secure, accurate, recountable and accessible in order to ensure the integrity of and voter confidence in elections.

We also believe in open and transparent government, and for these reasons we support post-election audits of our voting machines.

While the League believes in efficient and economical government, we oppose S.B. 364 for the following reasons:

We believe that running the ballots through a town's alternate backup machine with a memory card that's been programmed at the same time and in the same way with the same coding on it as the original card is meaningless.

This process simply repeats whatever errors there might have been originally involved.

While there may be secure and accurate ways of using another machine to audit a voting machine, the proposed legislation does not contain safeguards, such as clear chain of custody requirements for all critical audit components, and independent testing of memory cards to reassure us that this is so.

Our current audit law is a check on the accuracy of our voting equipment at a time when checks and balances in elections are increasingly important, and we urge you to vote no on S.B. 364.

We've also submitted written testimony on S.B. 421, H.B. 5428, H.B. 5441, H.B. 5442 and H.B. 5471.

We support these bills and their provisions with one exception. We oppose extending the

period for attachment of party privileges from three months to four months. We actually believe the periods should be shortened, not lengthened.

Our priorities in the bills are repealing Section 9717, the reversion clause for the Citizens Election Program, which appears in two bills, requiring electronic filing of financial disclosure statements in most cases under the Citizens Election Program, extending the use of provisional ballots to all elections, adopting measures to ensure military and overseas voters have sufficient time to vote, and expanding the investigatory and enforcement powers of the State Elections Enforcement Commission.

Just briefly, the Citizens' United bill, H.B. 5471, we believe that any statute responding to that decision must include strong safeguards, and we are pleased that the bill contained Stand by Your Ad provisions and that the language regarding what constitutes coordination has been expanded.

To ensure the public's right to know, we believe that the independent expenditures should be disclosed in realtime or as rapidly as reasonably possible through the use of electronic filing.

Thank you again for the opportunity to comment on these bills.

REP. SPALLONE: Thank you very much.

Are there any questions for Ms. Horrigan? If not, we appreciate your testimony. Thank you for coming in today.



**Testimony of Karen Hobert Flynn  
Vice President for State Operations  
Common Cause  
Before the Government Administration and Elections Committee  
March 12, 2010**

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 SB 421, HB 5428 and HB5471.

SB 421 is a bill that contains many reforms to the Citizens' Election Program that the committee, the caucuses, and the State Elections Enforcement Commission worked together to help strengthen the program with common sense changes, as well as ease administrative burdens on candidates and treasurers. HB 5428 is a more condensed version of SB 421. Specifically, Common Cause supports:

- **Repeal of 9-717 and proposed severability.** Common Cause believes the repeal of Section 9-717, also known as the "reversion clause," is the most important thing we can do right now if we are to provide greater electoral certainty for candidates planning to run under the Citizens' Election Program for 2010 statewide and legislative elections. Repeal of the reversion clause would allow the general severability clause found in Section 1-3 to apply to the Program should the State lose on appeal. This would allow the Citizens' Election Program to operate for 2010, thereby avoiding the dramatic consequence of the immediate loss of all of the election law progress we have enjoyed in CT since 2005.
- **Setting a Clear Date to determine whether a candidate has opposition.** This is a common sense fix that creates certainty for participating candidates to know whether they are opposed and what grant amount they have while they run for office under the program.



Several candidates in 2008 faced uncertainty until close to the deadline to fill a vacancy.

- **Lengthens the time for SEEC to review statewide candidate applications.** The CEP currently requires that the staff at Elections Enforcement have four days to review and approve an application to get a grant. Given the sheer volume of reporting needed to qualify for statewide races, with more contributions, the SEEC needs more time to process these adequately. Ten business days is a reasonable time frame.
- **Electronic Filing.** Common Cause supports mandatory electronic filing to facilitate participation and reporting under the CEP, and to ensure timely access for the public to this information.

Common Cause applauds members of this Committee for looking at a comprehensive way to address ways to respond to the Citizens United decision, including fixing our Citizens' Election program. We support Raised bill 5471 which takes some important steps to increase disclosure of independent expenditures and clarifying what constitutes coordination, so that as a state we can work to ensure that independent expenditures are truly independent.

We are pleased to see an expansion of the definition of the kinds of entities that could, and likely will engage in independent expenditures. Adding the definition of "entity" as a new designation will allow us to know more about who is engaging in this kind of activity, and it recognizes the variety of different kinds of groups who could become involved in this new avenue of political spending.

We think it is important to require all groups to disclose their activities. This bill takes a first step by requiring independent expenditures valued at more than \$1,000 to be reported. We support this threshold, but we believe that to ensure real transparency, these donations should be reported within 24 hours of the expenditure, so candidates know that it is coming. In addition, we think it is essential to make reporting mandatory to disclose electronically so that it is available in real time to the public. This information should be accessible and downloadable with user-friendly formats.

In addition, all entities that engage in independent expenditures should disclose their donors over \$100, so that we know who is really funding these expenditures. We will likely see, just like we see at the federal level, a number of shell groups forming with names like "People United for Reasonable Health Care" – when the effort is really funded by large pharmaceutical firms. Disclosing a group's donors electronically in



searchable databases will allow reporters, public interest groups, the public, and candidates to know more about who is really behind these expenditures.

Common Cause strongly supports the “stand by your ad” provision of this raised bill. Common Cause would go further, however. Because we will see shell groups, requiring the CEO of a coalition effort to appear in an ad doesn’t tell you much about who is behind the expenditure. Corporations or labor unions that collect money for political expenditures should provide attribution for their top three donors, in order to prevent evasion of disclosure by “Astroturf” entities.

Common Cause especially endorses the clarifying language regarding coordination that creates the rebuttable presumption for those making political expenditures to show that those expenditures were truly independent.

Common Cause especially endorses the clarifying language regarding coordination that creates the rebuttable presumption for those making political expenditures to show that those expenditures were truly independent. It also looks at the many ways that entities could coordinate expenditures and helps define what constitutes coordination to create a bright line to guide all those interested in engaging in this type of activity.

Without a doubt, the Citizens United case will dramatically shift the political landscape in Connecticut and at the federal level. These reforms, coupled with our very strong Citizens’ Election program that includes significant pay-to-play measures will make Connecticut the model state for how to protect the public from special interest dominance in elections.

Thank you for your time and consideration.



STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

**TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION  
AND ELECTIONS COMMITTEE**

**March 11, 2010**

**Albert P. Lenge, Executive Director  
State Elections Enforcement Commission**

Good Morning, Senator Slossberg and Representative Spallone, and distinguished members of the Government Administration and Elections Committee, once again, I appreciate and thank you for the opportunity to present testimony today.

I would like to speak in support of several bills today, specifically House Bill 5428, which raises the Commissions legislative proposals, and House Bill 5471, a vital piece of legislation intended to bring Connecticut's campaign finance laws into line with the recent Supreme Court decision *Citizens' United v. FEC*, which was announced in January.

HB5470

Your committee has rightly propelled campaign finance to the top of your agenda for this legislative session; and I cannot stress to you enough the importance of a quick reaction to both rulings and to preserve the Citizens' Election Program, by protecting the fund and making necessary changes to the Program which includes the repeal of section 9-717. Working with you I have every confidence that we can find solutions to these difficult problems.

Initially, I would like to spend the bulk of my time today talking about the *Citizens United* case, trying to place it in context and laying out response. Let me start by offering some background on:

- What the Supreme Court said about corporate speech in this decision;
- What parts of our current statutory regime the *Citizens United* analysis affects; and
- How the proposed legislation attempts to amend Connecticut's campaign finance law to accommodate for the *Citizens United* decision.

SB389

Whatever your political stripe or personal convictions, the Supreme Court's decision in *Citizens United v. FEC* represents one of those rare high-court decisions that will likely have long-lasting, far-reaching effects on our society. The 5-4 decision basically declared that the First Amendment's guarantees of free speech extended not only to individuals but also to corporations, and that the federal government had no authority to discriminate against certain speakers based on their identity. In one stroke, the Supreme Court wiped away well-established precedent preventing unbridled spending from corporate treasuries that may register in the billions of dollars. *Citizens United* nullified any restriction on corporate independent expenditures that advocated on behalf of – or against – a political candidate or party. The Court reasoned that corporate communications coupled with attribution and reporting requirements would allow voters to gauge the value of some of the messages in the “marketplace of ideas.”

HB5022

SB421

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Connecticut, like the federal government and other states, prohibits business entities from spending money directly from their corporate treasuries on contributions as well as independent expenditures that promote or oppose a political candidate or party. Specifically, Connecticut General Statutes Section 9-613 states that “[n]o business entity shall make any contributions or expenditures to, or for the benefit of, any candidate’s campaign for election to any public office” and that “[n]o business entity shall make any other contributions or expenditures to promote the success or defeat of any political party.” Such contributions and expenditures by corporations must be made instead through political committees, a vehicle which affords disclosure and attribution. The *Citizens United* decision touched only upon one part of our existing ban on corporate spending, namely the expenditures that a corporation may make to promote a candidate or party. The Supreme Court did not say that corporations could make contributions to candidates or parties, and that portion of our law prohibiting such contributions remains viable.

Under *Citizens United*, our prohibition on independent expenditures by corporations, in my opinion, would not survive constitutional scrutiny. Our statute, which imposes an outright ban on direct expenditures by corporations and other business entities when those expenditures are designed to advocate for or against a candidate or party, violates the Supreme Court’s newly enunciated rule.

The Commission, however, retains the ability to require reporting of independent expenditures that these corporations may make and to require corporations to place attributions on any messages they create so that voters can identify them and evaluate their efficacy. The Court said that its *Citizens United* decision created a campaign finance system “pair[ing] corporate independent expenditures with effective disclosure.”

We have drafted our responsive legislation to capitalize on the ability of the state to require prompt disclosure of these independent expenditures and attributions on individual pieces of communication.

The legislation that we propose in House Bill 5471 brings our current law into line with the Supreme Court’s direction in *Citizens United*. First, in section 1, the bill amends the definitions section of Chapter 155 by defining “entity,” a new designation that includes specific state-authorized business models, such as corporations, partnerships, and other enumerated corporate forms in Connecticut statutes as well as labor unions. Creating this new definition allows us to afford corporations and other organized groups the ability to speak in the political marketplace by making independent expenditures. Adding this new category of “entity” to the landscape means that independent expenditures would come from three potential sources: individuals and committees acting alone – which was always the case – and under this legislation from the newly defined “entities.”

In conjunction with expanding the potential universe of legal participants in the political discussion, this legislation buttresses our ability to determine who is speaking. Section 6 of the bill requires individuals, entities, and committees acting alone who make independent expenditures valued at more than \$1,000 in the aggregate to file an independent expenditure report. On that report the Commission will have the ability to tailor the information that those making independent expenditures supply so that we can respond with supplemental grants when necessary for those candidates participating in the Citizens’ Election Program and identify speakers in cases where further enforcement or legal action is needed.

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Another effective tool to facilitate public disclosure of independent expenditures will be the broadened attribution requirements proposed in section 10 of the bill. Entities that make independent expenditures will not only have to identify any message they create, but the CEO or equivalent officer of the corporation will also have to "stand by" the ad as is required of candidates in their ads. The CEO's name and title would appear with other attribution information in any printed ad. Like candidates, CEO's would be required to provide their voice and visage to any televised or Internet video message along with a statement that they approved the content of the message and that it was made independent of any candidate or party. The same message in the CEO's voice would be required in radio or Internet audio messages.

All of these things – opening the political landscape to direct expenditures by corporations; comprehensive, timely reporting of independent expenditures; and ample attribution requirements that connect entities to the candidates or parties they advocate and oppose – bring Connecticut's campaign finance statutes into line with the law laid out by the Supreme Court in *Citizens United*.

Other sections of House Bill 5471 address aspects of our independent expenditure regime that needed to be brought up to date with our present campaign landscape. Specifically, we took the definition of coordinated expenditure that currently exists in our statute and rewrote it in light of independent expenditures. We created a rebuttable presumption for those making specified expenditures to show that the expenditures were indeed independent of any candidate or committee. In all but one instance could we say "generally speaking" instead, this burden-shifting did not alter the substance of already existing definitions but rather simply recast them.

Specifically, in section 2 of the raised bill, we defined "independent expenditure" and then listed types of expenditures are by their nature presumed to be coordinated with a candidate, a candidate committee, political committee, or party committee. The new definition focuses on corporate expenditures where a leader of the corporate entity making the expenditure may also play a role in a campaign or party that benefits from the expenditure. In that case, the company making the expenditure would need to show why given the circumstances under which the expenditure was made, where one individual had his feet in both camps – corporate and campaign – that expenditure was not coordinated between the two.

Given the increased number of independent expenditures that we expect to see in light of the *Citizens United* case, shifting the burden to the entities making those expenditures to show that they truly were independent is essential. It requires the agency to prove that a certain scenario exists, then shifts the burden to the entity that has access to the evidence that characterizes whether the expenditure was independent. It will also will create an incentive for corporations and other entities to act with extra vigilance and caution to avoid making a coordinated expenditure on behalf of a candidate or party. Absent this fix, proving that a corporate expenditure was coordinated would be too burdensome on the Commission's limited staff and would make enforcement difficult if not impossible.