HB 7329 "An Act Concerning Dark Money and Disclosure of Foreign Political Spending and of Political Advertising on Social Media"

- Free speech is one of our most precious rights in the U.S. This bill could chill political speech in Connecticut and lead to less political engagement. There is bipartisan concern about the potential effects of this bill.

From the ACLU-CT's testimony on this bill: "Although the ACLU-CT agrees with the importance of election transparency, one unfortunate consequence of campaign finance reform has been the infringement of rights to freedom of speech and association. Though the goal of these bills is clearly to ensure that so-called "dark money" does not enter our elections, the ACLU-CT fears a slippery slope when regulating campaign finance and disclosure of funding. Depending on what types of entities these requirements reach, the bills may limit debate and discussion of public policy and pose significant threats to certain organizations and their donors."

- This bill is so far reaching that it is hard to even know what effects it could have on campaigns and elections in Connecticut. Some of the provisions are likely unconstitutional, and most would have unintended consequences. Well-meaning people could be targeted because of this law.

- Sections of this bill raise concerns regarding the right to privacy. In a 1958 decision, *NAACP v. Alabama*, the Supreme Court held that the NAACP could not be forced to divulge the names and addresses of its members and donors, and that the right of association is protected by the First and Fourteenth Amendments. The right to privacy puts the debate back where it belongs – on the issues instead of the individuals involved. While government must be transparent, people have a right to privacy.

In recent years, we have seen examples across the country of individuals being physically threatened, losing their jobs, or being otherwise coerced or intimidated as a result of the views they hold. This is why the right to privacy is so important.

- Secondary disclosure provisions found in this bill could discourage donations to Connecticut non-profits.

- Definitions in this bill are overly broad in order to "catch" as much political speech as possible, but there are many constitutional protections on political speech and the broad definitions in this bill would likely run counter to those protections.

- The fines for those who participate in issue advocacy would increase significantly, which could chill lawful political speech. p 8 lines 212-226 increases fines from possible limit of $20,000 to "*twice the amount of independent expenditure, whichever is greater."*

Lines 231-233 – if SEEC finds the that the failure is "knowing and willful" an individual could receive a *civil penalty of up to ten times* the amount of independent expenditures. Should SEEC, an unelected body with little accountability to voters, really be able to levy fines this large? The potential for abuse is concerning, especially when election laws are already confusing.

- The new reporting requirements for independent expenditure groups (found in changes to section 9-608c) are onerous and would make it difficult for smaller, less well-funded groups to participate in the political process.

- The section on foreign entities is overly broad and could limit speech by entities in the U.S. that associate with entities outside the U.S., whether for-profit or non-profit organizations.

- There are many problems with the section on digital communications (see also issues raised by SB 642). Compliance would be incredibly difficult. For example, digital platforms would be required to determine what is or isn't a political ad. A trade group for the affected businesses said this would likely lead to the suppression of political speech.

From the testimony of TechNet (a network of technology companies): "The compliance challenges we raise above are quite real. Many online platforms and systems are therefore likely to ban all political advertisements from their systems, as has been the case in other states like Washington and Maryland where provisions were too broad and complicated to comply with.

SB 642 "An Act Concerning Social Media Platforms and Campaign Finance"

- Digital communications (including the use of social media) is an important way for candidates and private organizations and individuals to communicate about politics.
- Many advocacy organizations use social media/other digital communications to educate followers/members about what goes on at the Capitol and what is happening during an election.
- Just communicating about an election or candidate could be deemed political speech -- it would be up to SEEC to determine what is and isn't neutral.
- This bill could have the effect of chilling political speech by ordinary citizens as digital platforms seek to limit their liability.
- The bill was opposed in written testimony by an ACLU-CT board member. He said it was likely unconstitutional because of its overly broad definitions and its limitations on political speech.

SB 914 "An Act Concerning Disclosure of Coordinated and Independent Political Spending"

- State law already prohibits coordinated spending between independent expenditure groups and candidates, but right now SEEC has to prove coordination.
- This bill is likely unconstitutional in that the Supreme Court has determined that coordinated spending cannot be "tacit" or implied, but rather must be clear and concrete. (Colorado Republican Federal Campaign Committee v. Federal Election Commission)
- The bill fails to properly limit its scope to truly coordinated speech. Instead, it attempts to sweep in activity done with the mere "tacit understanding" of a candidate or family member.
- The addition of the word "entirely" (line 5) into the presently existing definition for "independent expenditure," which would require that such an expenditure be "made entirely without the consent" of a candidate, further demonstrates the danger that virtually all favorable communications about a candidate will be deemed coordinated expenditures.
- Supposedly creates "bright line" between candidates and independent expenditure groups by redefining coordination but it actually presumes guilt under a variety of circumstances – for example, if a family member has "more than [an] incidental discussion" with someone who works for an advocacy organization. (lines 64-68)
- Family includes spouses, kids, parents, aunts, uncles, in-laws – regulates behavior of a large number of people.
- For example: if your uncle works with a conservation group that spends any money during an election cycle and you're a candidate, you are presumed guilty of coordination *or* if your uncle has a conversation with a person from a conservation group (or Planned Parenthood, or a gun control group, etc) who makes independent expenditures you are *deemed* guilty of coordination.
- The political world in CT is small, are you just supposed to avoid talking to people?
- Says candidates and independent expenditure groups can't share fundraising lists or even names of potential donors — even if an individual or entity buys the list. (lines 40-45)