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ATTN: Senate Committee on Rules

Chair Burdick & members of the committee,

My name is Sal Peralta. On behalf of the Independent Party of Oregon and its 120,000 members statewide, I would like to thank the Senate Rules Committee for taking up debate on this issue.

During the last few years, we have seen an alarming trend in Washington D.C. of the governing party setting aside long-standing norms or customs that have contributed significantly to the stability and integrity of our representative Republic.

In 2016, the US Senate set aside a 240 year tradition of “advice and consent” that involved providing a public hearing and a process for confirming the President’s nominee to the US Supreme Court, claiming that their right to give “advice and consent” included the right to withhold advice and consent.

Similarly, President Donald Trump broke with a Post-Watergate 40-year tradition of making his income tax returns available for the public and press to review and scrutinize. One might wonder how World War II would have been different if Franklin Delano Roosevelt had owned a hotel in Berlin or owed \$100 million to the Deutsche Bank?

These actions, which serve to undermine both the proper functioning of our federal government and/or public confidence in our basic institutions of government, are permissible because they are violations of customs and norms, rather than laws. In response, we believe it is appropriate for states to review their own laws to determine whether constructive action can be taken to help restore public confidence in government.

To claims that this legislation is partisan in nature, we note that this is only partisan to the degree that individual Democrats or Republicans are triggers for the legislation. We have no doubt that had Hillary Clinton won the Presidency after having refused to make her income tax returns publicly available, that Republican-controlled legislatures would be seeking to pass similar laws.

In 2016, the Independent Party became intimately familiar with Oregon statutes related to the Presidential nomination. When legislators began discussing legislation to require Presidential candidates to release their income tax statements, our analysis was that it was not likely within the state’s authority to make a requirement of candidates in the manner contemplated by this bill, since it is unlikely that states can add conditions to running for President that are not enumerated in Article II, Section 1 of the US Constitution.

Instead of placing a blanket requirement that a Presidential candidate comply with these provisions as a condition for appearing on the ballot, we instead recommended amending ORS 249.078 (1)(a) in a way that

limits the authority of the Oregon Secretary of State to automatically place a candidate on the May Presidential Preference Primary ballot, if that candidate has not met certain reasonable standards to ensure that the emoluments clause of the US Constitution is being adhered to and/or to otherwise limit potential foreign interference including making publicly available his/her tax returns for X years.

<https://www.oregonlaws.org/ors/249.078>

(1) The name of a candidate for a major political party nomination for President of the United States shall be printed on the ballot only:

(a) By direction of the Secretary of State who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; **or**

Such an approach would allow candidates to appear on the ballot by petition, but limiting the discretion of the SOS to provide *automatic* ballot access is constitutional and clearly within the state's legal purview in a way that outright denying ballot access to a candidate is not

Instead, this legislation seeks to impose a blanket requirement on ballot access for Presidential candidates that we do not believe is likely to pass legal scrutiny. Although we have seen some analysis that courts might uphold the provisions of SB 888, and are grateful to the Senate Rules Committee for considering legislation along these lines, we remain skeptical about the approach taken in this bill.

Respectfully,

Sal Peralta
Secretary, Independent Party of Oregon