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**TESTIMONY IN OPPOSITION TO 18-H 7877,
RELATING TO PRESIDENTIAL TAX RETURNS
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This bill would require Presidential and Vice-Presidential candidates to publicly disclose their federal tax returns in order to appear on the election ballot in Rhode Island. We believe that there are serious constitutional concerns raised by such a requirement. See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (striking down a state's term limit requirement for congressional office-holders, ruling that the Constitution prohibits States from imposing congressional qualifications exceeding those specifically enumerated in the Constitution). Supporters of this legislation point to constitutional scholars who claim that legislation like this would pass constitutional muster. Although we, and other constitutional scholars, disagree, we wish to instead focus our testimony on the fundamental *policy* reasons why this legislation should be rejected.

It is all well and good to believe firmly in the importance of the fundamental right to vote. But that right means little if you're not given the opportunity to vote for the candidate you want to support. In other words, the right to run for office is a crucial corollary to the right to vote, so attempts to disqualify people from appearing on the ballot should be given the same careful scrutiny as attempts to make it hard to exercise the franchise.

That is why the ACLU of RI has long objected to legislative efforts to impose added qualifications on candidates to qualify for the ballot (such as pending legislation from the Governor barring candidates who owe fines to the Board of Elections from running). The debate over a candidate's refusal to release personal tax information should be fought on the campaign trail, not serve as a disqualifier for running for office.

This bill would set a troubling precedent. For example, should Presidential candidates be required to disclose records regarding their physical and mental health -- information that is potentially even more important regarding their ability to serve? Would supporters of this legislation also have considered it appropriate in 2008 to adopt a law requiring as a condition of appearing on the ballot that Presidential candidates submit a notarized copy of their birth certificate? After all, citizenship -- unlike tax return information -- is a Constitutional requirement for the office.

It is especially problematic for states to impose special qualifications in the context of federal campaigns. In 2013, the General Assembly added Rhode Island to the list of states that have joined the National Popular Vote compact. The compact provides that state election officials in all states participating in the plan would award their Electoral College votes to the

presidential candidate who receives the largest number of popular votes in all 50 states and the District of Columbia. The ACLU supported the legislation as furthering core principles of democracy and the concept of “one person-one vote.” Yet a bill like this undermines those goals if some candidates are barred in certain states from getting any votes in the first place based on their decision to keep confidential a document that is generally considered confidential.

Keeping candidates off the ballot for this reason can thus have an unfortunate delegitimizing effect on the election results. There will always be questions about the true outcome of the election – whether in terms of the popular vote or electoral college vote – if a candidate decided not to release this information and was therefore precluded from running in some states.

While we fully understand why disclosure of this information would be useful, that should not be a standard for determining who gets to run for President or Vice-President – or state legislator or any other office where disclosure of tax return information could be deemed just as useful. If, however misguidedly, people don’t care what is in their candidate’s tax return when deciding whom to vote for, so be it. Those who DO care can make their opposing views known on Election Day as well.

To repeat what we said at the beginning: Ultimately, the debate over a candidate's refusal to release personal tax information should be fought on the campaign trail, not serve as a disqualifier for running for office.

For all these reasons, the ACLU of RI opposes H-7877.