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TESTIMONY IN OPPOSITION TO 17-H 5400,
RELATING TO PRESIDENTAL 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).

Just as importantly, we believe it is poor policy as well. The ACLU of RI has long objected to legislative efforts to impose additional qualifications, beyond those contained in the Constitution, 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), and it is especially problematic for states to impose special qualifications in the context of federal campaigns. 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.

We also believe 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.

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 the decision they make under a law like this.

Keeping candidates off the ballot for this reason can 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. For all these reasons, the ACLU of RI opposes this legislation.