

Dear Committee Members:

The attached document describes valid, constitutional means for overcoming Citizens United and reclaiming the right of the voters (all voters) to have their voice heard? At their behest, I provided a copy of this document on January 11, 2019 to Sen. Dembrow and Rep. Smith Warner encouraging them to share the passion of the voters for overcoming the ability of big money to supplant the voice of the many with the agenda of the few. I am completely puzzled about my elected representatives lack of response.

While there are certainly other pressing matters on the legislative agenda, I can think of nothing more important than reclaiming, securing, and protecting our right-to-vote. Nor, do I understand why any “liberal/progressive” elected representative would not have that fundamental right at the top of their agenda. Without the franchise we have nothing!

In a January, 2019 public meeting Senator Dembrow cautioned against raising issues with elected representatives for whom I am not a constituent. Never-the-less, the magnitude of the problem is such that it seems reasonable to reach out to you with these proposals. I prefer to believe that people like yourselves can set party and partisanship aside to work on behalf of the voters and would not be bound by a protocol which prevents consideration of valid solutions to reviving and securing the franchise.

As I write this, a newscast on NPR describes a Washington State Legislator introducing legislation modifying the criteria for Presidents to appear on the ballot in the State of Washington to require releasing the prior 5 years’ tax returns. Rep. Smith Warner and Sen. Dembrow know well that this is one of many constitutional recommendations included in the suggestions they solicited. Oregon could have lead where we now must follow!

Never-the-less, there remain a multitude of other actions available to the legislature (and, by referenda or initiative, to the people) with which we can lead, demonstrate to the rest of the country how to excise the electoral bondage imposed by the few and which can be equally or even more effective in reclaiming the right of the voters to have their voice heard.

I would be delighted to discuss these and other proposals face-to-face and in greater detail!

Thank you for your consideration!

Roy B. Conant

*Radical Equality*  
*Overcoming Citizen's United & Exacting Electoral Justice in Oregon*  
A Legislative Proposal for Oregon

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January 8, 2019

Thank you for inviting me to make this proposal. Its title is modestly different from the piece I shared when we met on January 4<sup>th</sup>. But, like that longer piece, it envisions utilizing a combination of state legislation, referenda, and citizen initiatives to eviscerate reliance on big money in elections.

With the Supreme Court asserting money is speech (Citizens United), restricting how much money candidates may accrue and spend is, for the nonce, a non-starter – HR1 “For the People Act” (<https://www.congress.gov/bill/116th-congress/house-bill/1>) notwithstanding. The power vested in the states (U.S. Constitution, Article I, Section 4) to control the manner of the elections provides significant alternative means and leverage for effecting the same without running afoul of the court.

The states have always been laboratories – positing, testing, and implementing reform. As much as the slogan of “States Rights” might be anathema to liberals and progressives, critical masses of states acting together (or similarly) has often changed the political center. Shall Oregon lead the charge to do so again?!

The largest obstacle to removing the influence of big money in state elections is our ability to quickly and effectively refer proposals to the electorate. The initiative process is slow and uncertain. As Senator Dembrow noted (Russellville Grange, January 7, 2019) legislative referenda submitted to the voters by the Oregon State Legislature are at least a 10% likelier to be approved at the ballot than are citizen ballot initiatives.

Will our elected representatives forgo allegiance to party in favor of requesting of the voters (via legislative referenda) permission to achieve this urgently needed radical equality of the electorate at the ballot? Can members of a political party dependent on campaign contributions from corporations and the rich forgo that money in favor of legislating "For the People" as HR1 suggests? How will our representatives acquit themselves – as members of a party or as true, radical advocates of their constituents’ right-to-vote and have their vote count?

With our Democratic state legislature and governor and Oregon’s historical record of progressive reforms (e.g. the Citizen Ballot Initiative, the Bottle Bill, Land Use Planning, etc.) Oregon is in a unique national position to lead, providing progressive solutions bridging the chasms which separate our society (conservative vs. liberal, east vs. west, north vs. south, Democrat vs. Republican, etc.) in a substantively stronger, sustainable and popular assertion of our right-to-vote. If we enact the following measures and find only five similarly inclined companion states to do so, the incipient product of our efforts will perfect itself in an inexorable, inevitable insurgency of the electorate profoundly reclaiming its rightful position as the center of power in our republic.

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**Electoral Reform Proposals**  
**How to Return the Power of the Vote to the Voter**

**NOTE:** Rather than bundling these in an omnibus bill which risks becoming dense and indecipherable, it would be best to present each individually and simultaneously on the same ballot, retaining the simplicity of each proposal while diluting the ability of big money to focus on defeating only one ballot item and enabling each voter to vote for or against each item.

1. **Candidate Donations Limited to Individuals:** Require any candidate wishing to have her/his name appear on the ballot to sign an affidavit they will only accept donations from individual residents of the district they are campaigning to represent. Explanation:
  - a. **Direct Effect:** Removes the influence of outside money in direct candidate contributions
  - b. **Timing:** Affidavit must be notarized and signed by the candidate at the time the candidate registers with the state as a candidate
  - c. **Donor Constitutionality:** Because this is not a restriction on donors spending money, it is not a restriction on speech. Would-be donors are still free to spend/speak all as much as they desire. The candidate is simply agreeing not to accept their money/speech.
  - d. **Candidate Constitutionality:** If a candidate does not sign the affidavit, they are not being prevented from spending/speaking, but simply must speak louder/spend more as a write-in candidate. The recent election of Lisa Murkowski (December, 2010) as a write-in candidate for U.S. Senate establishes that a write-in candidacy is possible.
  - e. **Scope:** Applies to all municipal, county, and statewide elected offices, including U.S. Representative and Senator
  - f. **Special Application:** Limits a Presidential candidate's expenditures in Oregon to only individual donations from within the state of Oregon
  - g. **Enforcement:** Two penalties determined by scope of violation
    - i. **Less than Five Instances:** Fine equivalent to 10 times the amounts of the violation paid to a state fund for publicly-financed elections.
    - ii. **More than Five Instances:** Misdemeanor with mandatory 1,000 hour court-supervised community service over a two-year period, prohibition from running for or holding public office for 6 years, prohibition on voting until the community service is completed, and a fine equal to 10 times the amount of the violation paid to a state fund for publicly-financed elections.

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2. **Campaign Donation Dollar Limits:** Requires any candidates wishing to have her/his name printed on the ballot to sign an affidavit affirming they will accept no donation to their campaign in excess of \$1,000.00 from within the State of Oregon. Explanation:
- a. **Direct Effect:** Removes the influence of big money in direct candidate contributions
  - b. **Timing:** Affidavit must be notarized and signed by the candidate at the time the candidate registers with the state as a candidate
  - c. **Donor Constitutionality:** Because this is not a restriction on donors spending money, it is not a restriction on speech. Would-be donors are still free to spend/speak all as much as they desire. The candidate is simply agreeing not to allow them to speak/spend on their behalf.
  - d. **Candidate Constitutionality:** If a candidate does not sign the affidavit, they are not being prevented from allowing others to speak/spend on their behalf.
  - e. **Scope:** Applies to all municipal, county, and statewide elected offices, including U.S. Representative and Senator. Applies to monetary, in-kind, and sub-chapter-S/LLC/business donations.
  - f. **Special Application:** Limits a Presidential candidate to accepting no more than \$1,000.00 donations from within the state of Oregon
  - g. **Enforcement:** Two penalties determined by scope of violation
    - i. **Less than Five Instances:** Fine equivalent to 10 times the amounts of the violation paid to a state fund for publicly-financed elections.
    - ii. **More than Five Instances:** Misdemeanor with mandatory 1,000 hour court-supervised community service over a two-year period, prohibition from running for or holding public office for 6 years, prohibition on voting until the community service is completed, and a fine equal to 10 times the amount of the violation paid to a state fund for publicly-financed elections.

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- 3. Restrict Campaign Donations for Candidates for U.S. House and Senate: Require candidates for the U.S. House of Representatives and U.S. Senate to comply with Article II, Section 22 of the Oregon Constitution**
- a. Direct Effect:** Requires candidates to accept donations only from “individuals” currently residing in the district the candidate is campaigning to represent. Removes the influence of outside money in elections for federal office.
  - b. Donor Constitutionality:** Because this is not a restriction on any donor spending money, it is not a restriction on speech. Would-be donors are still free to spend/speak all as much as they desire in other venues.
  - c. Candidate Constitutionality:** Does not restrict the candidate’s ability to speak on his/her own behalf.
  - d. Scope:**
    - i. Applies to candidates for U.S. Representative and Senator.**
    - ii. Applies to monetary, in-kind, and sub-chapter- S/LLC/business donations.**
    - iii. Forbids donations/contributions from state or national political parties**
    - iv. Forbids donations/contributions from PACs**
  - e. Enforcement:** As provided by the Oregon Constitution: Article II, Section 2.
    - i. NOTE:** There is no U.S. Constitutional prohibition on a state requiring a member of the U.S. Congress to vacate a seat to which they have been elected. If the member elects not to do so and the relevant house of Congress does not expel the member, the member shall be immediately charged with a felony, tried, and, if found guilty, required to serve a mandatory prison sentence equivalent in time to the remaining term of the office to which the member was elected..

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4. **Recall for Members of the U.S. Congress:** Amend the Oregon Constitution Article II, Section 18 to include Oregon members of the U.S. House of Representatives and U.S. Senate as elected officials subject to recall.
- a. **Direct Effect:** Allows voters to recall a member of the U.S. Congress
  - b. **Constitutionality:** Falls within the state's U.S. Constitution Article I, Section 4 powers
  - c. **Candidate Constitutionality:** Does not restrict the candidate's ability to speak on his/her own behalf.
  - d. **Scope:**
    - i. Applies to candidates for U.S. Representative and Senator.
    - ii. Applies to monetary, in-kind, and sub-chapter- S/LLC/business donations.
    - iii. Forbids donations/contributions from state or national political parties
    - iv. Forbids donations/contributions from PACs
  - e. **Enforcement:** As provided by the Oregon Constitution: Article II, Section 2.
    - i. **NOTE:** There is no U.S. Constitutional prohibition on a state requiring a member of the U.S. Congress to vacate a seat to which they have been elected. If the member does not resign and is not expelled by the relevant house, the recalled member shall be immediately charged with a felony, tried, and, if found guilty, required to serve a mandatory prison sentence equivalent in time to the remaining term of the office to which the member was elected.

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5. **Permanent Non-Citizen Resident Voting:** Allows legal, permanent, non-citizen residents to vote in all local and state-wide elections. Explanation:
- a. **Direct Effects:**
    - i. Allows valued members of our community/state to participate in government.
    - ii. Provides example of civic responsibility to citizen-children of non-citizen residents
    - iii. Allows non-citizen legal residents to vote for the U.S. House of Representatives member for the district in which they live
  - b. **Constitutionality:**
    - i. **U.S. Constitution**
      - 1. Article I, Section 4 allows the states to determine the manner of their elections, including qualifications for voting
      - 2. Article I, Section 2 explicitly confers the franchise/right-to-vote for U.S. House of Representatives to any voter who can also vote for the Oregon State House: "...the electors (voters) in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature."
    - ii. **Oregon Constitution:** Requires amendment of Article II, Section 2 to define legal, non-resident aliens as citizens of Oregon
  - c. **Scope:** Applies to elections for all municipal, county, statewide legislative and executive elected offices, and the U.S. House of Representatives.
    - i. **Special Note:** Nowhere in the U.S. Constitution does it mandate that a person must be a U.S. citizen in order to qualify to vote for any office, including electors for President!

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A Legislative Proposal for Oregon

6. **Candidate Tax Returns:** In order for a candidate to appear on the ballot, the candidate must release 5 complete prior-year tax returns, including returns for:
- a. Any entities wholly or substantially (more than 20%) owned by the candidate
  - b. Any entities on which the candidate serves as an executive officer or a voting board member.
  - c. Explanation:
    - i. **Direct Effect:** Allows the public and the press to review financial qualifications and fitness of candidates
    - ii. **Timing:** Returns must be filed with the Oregon Secretary of State at the time the candidate registers with the state as a candidate along with a 4506T IRS authorization.
    - iii. **Constitutionality:** Requirement falls within the state's U.S. Constitution Article I, Section 4 powers.
    - iv. **Scope:** Applies to all municipal, county, and statewide elected offices, including U.S. Representative, Senator, and President.
      1. **NOTE:** While there may be an inclination to exclude municipal and county elections the historical propensity for fraud at the local level argues against that.
    - v. **Special Oversight Authority:** The Oregon Secretary of State and the Oregon Attorney General are authorized to review any candidate's tax returns using the IRS 4506T authorization and are required to release to the public information so obtained.
    - vi. **Enforcement:** Substantial differences between the candidates' released returns and 4506T information constitutes fraud and is a felony punishable by up to 1 year in prison, 2,000 hours of court supervised community service, and prohibition from holding public office or appearing on the ballot during the duration of community service.



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**7. 501c(4) Organizations – Super PACs:**

- a. **Donor Transparency:** Require all Oregon 501c(4) organizations, and any other organization involved in candidate or political issue advocacy in Oregon, to release a complete quarterly list of their donors whose donations or a fraction of whose donations are spent on political activity in Oregon. When such a report includes a fraction of a donor's expenditures, the entire donor's contribution must be reported.
- b. **For Business and Corporate Tax Returns:** Disallow any deduction for political expenses of any kind, whether or not incurred in the "normal course of business."

**Examples:**

- i. Advertising
  - ii. Consultants
  - iii. In-Kind/Trade
  - iv. Paid Employee Leave to work on a campaign
  - v. Meals & Entertainment
  - vi. Travel and Accommodations
  - vii. Gifts
- c. **Tax Exempt Status:** Subject 501(c)(4) and all other organizations subject to 7.a. above (except donations made pursuant to Article II, Section 22 of the Oregon Constitution) to Oregon Corporate Tax reporting and payment requirements – Remove Tax exempt status. For Oregon Corporate Tax all income is taxable -- Remove the IRS non-UBTI distinction.
  - d. **Banking:** All political advocacy funds spent in the state must be deposited to and withdrawn from a Bank Licensed in the State of Oregon. All bank accounts for political advocacy must be registered with the Oregon Department of Revenue.
  - e. **Donor Tax Credit:** Remove donor tax credit for donations to Super PACS.
  - f. **Tax Payments:** Require PACs to immediately deposit to 10% of all scheduled expenditures in Oregon with the Oregon Department of Revenue
  - g. **Explanation:**
    - i. **Direct Effect:**
      - 1. Makes donors transparent
      - 2. Taxes Super PACs to help cover government administrative costs
      - 3. Removes all business expense deductions for political activity of any kind whether or not incurred in the normal course of business
      - 4. Ensures political organizations pay taxes due
    - ii. **Constitutionality:** Requirement falls within the state's authority to register, regulate, and tax businesses within the state. May make campaign spending/speech more expensive but does not restrict spending or speech.
    - iii. **Enforcement:** Enforced by the Oregon Secretary of State and the Oregon Department of Revenue. Failure to comply with 5.e. above (Tax payments) results in immediate decertification and seizure of assets.

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- 8. Citizen Ballot Initiatives/Referenda: Modify the Oregon Constitution Article IV, Section 1 qualifications for Citizen Initiative Ballot Measures and both Citizen and Legislative Referenda to automatically qualify a ballot measure to appear on the ballot for the next election when there was:**
- a. **Less than a 5% differential in the vote (e.g. 51.9% No vs. 48.1% Yes) and**
  - b. **For which either those "For" or those "Opposed" were outspent in political advertising by more than 50% (e.g. In the above example, \$150,000 "No" and \$99,000 "Yes")**
  - c. **Any qualifying measure will be limited to two successive ballots without the need to gather signatures again**
  - d. **Explanation:**
    - i. **Direct Effect: Allows voters to reconsider a narrowly defeated/approved initiatives and referenda**
    - ii. **Constitutionality: Requires Amendment to Oregon Constitution, Article IV, Section 1**
    - iii. **Enforcement: Oregon Secretary of State, using campaign, PAC, etc. political expenditure reports and voting results authorizes or denies revote providing full disclosure for the basis of the decision.**