TESTIMONY ON HB 3166

Before the House Rules Committee
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I am testifying in favor of HB 3166 in the form of its -2 Amendment on behalf of Consolidated Oregon Indivisible Network (COIN), the Independent Party of Oregon, and the Oregon Progressive Party.

I am a public interest attorney with 46+ years of experience. Last week I posted on OLIS a complete readable version of the -2 Amendment, and the Oregon Election Reform Coalition posted a 2-page summary of HB 3166 -2.

Many Oregon Voters are Excluded from Voting for Candidates in the Primary Election

The Unified Primary Act would allow every registered voter to vote for candidates for partisan offices in the primary election. Currently, 43% (1.3 million) Oregon voters are not affiliated as Democrats or Republicans and are not allowed to vote for candidates in primary elections for the most powerful offices in Oregon: US Senator, US Representative, Governor, Secretary of State, Attorney General, Treasurer, State Senator, State Representative, and county commissioner in a dozen counties. Non-affiliated voters (NAVs) alone outnumber Democrats and outnumber Republicans.

With HB 3166 -2, the State would conduct a single, Unified Primary for each of those offices, instead of a separate primary for each major party (Democratic and Republican). Any candidate could file to run in the Unified Primary, regardless of party membership. Every registered voter could vote in the Unified Primary. The 2 candidates for each office earning the most votes in the primary would advance to the general election.

Why do this? Today, 43% of Oregon registered voters are not allowed to vote for candidates in the State-run primary for partisan offices. This percentage has been increasing steadily since 1970 and could reach 50% in the near future, as the automatic motor voter system registers more non-affiliated voters (NAVs) and fewer party members.

John Horvick, noted Oregon political analyst, writes:

Nearly half (47%) of voters ages 18-34 were registered as non-affiliated compared to just 16% of those ages 65+. Together with third party registrants, a majority of young voters are not eligible to vote in Oregon's closed primary elections.

If Oregon continues its system of closed primary elections, and continues to default Motor Voter registrants as non-affiliated, these gaps will increase. As a result, candidates will have an ever decreasing need to consider the interests of younger voters. This will weaken our representative system and fail to deliver benefits that are shared across generations.

Younger voters are also more racially diverse than older generations. The current system, therefore, prioritizes the interests of white voters over voters of color.

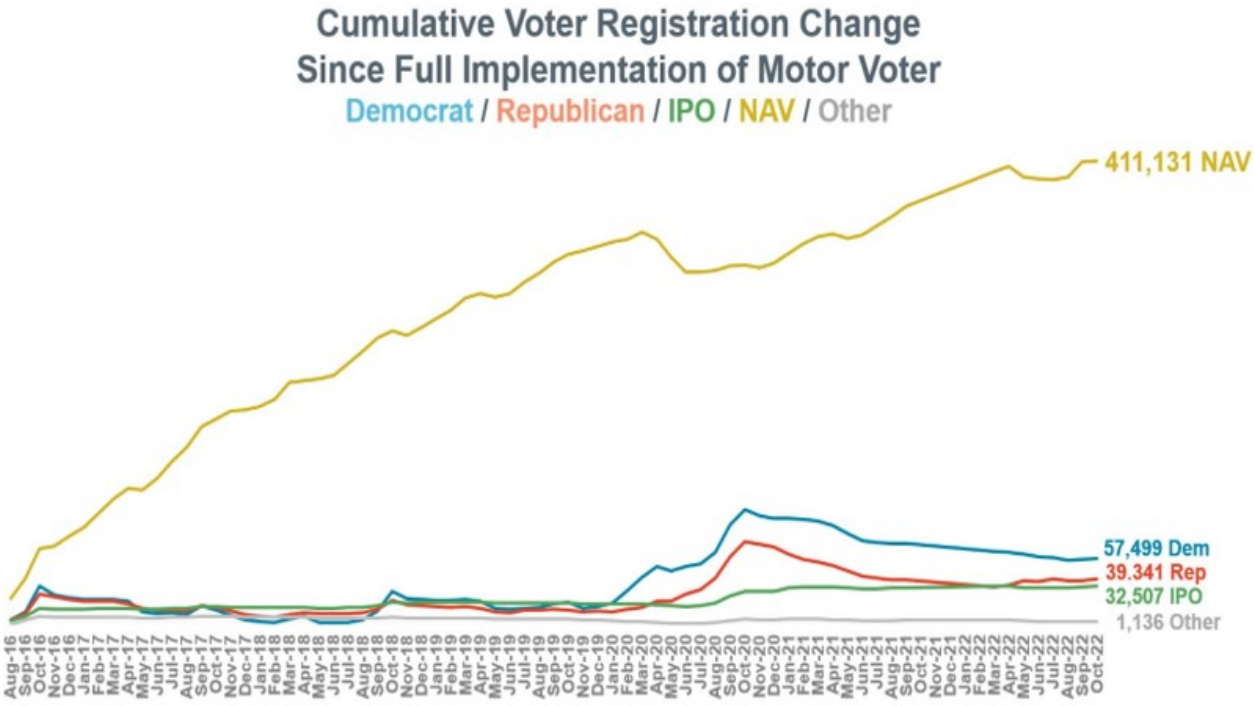

Chart by John Horvick

Many State Officers are Effectively Chosen in Closed Primary Elections

Many state officers are effectively chosen in primary elections by a small percentage of voters. Since 1988, every winner in a partisan statewide election has been a Democrat, except one (Dennis Richardson elected Secretary of State in 2016). Democrats are now fewer than 33% of Oregon registered voters, and they effectively decide who serves in statewide office in primary elections closed to 43% of Oregon voters.

Primary elections also often determine who wins most seats in the Oregon Legislature.

- Of the 30 Senate districts, 21 have Democratic v. Republican voter registration splits more lopsided than 60-40. 26 have splits more lopsided than 55-45. These are difficult to overcome in the general election.

- Of the 60 House districts, 38 have Democratic v. Republican voter registration splits more lopsided than 60-40. 52 have splits more lopsided than 55-45. These are difficult to overcome in the general election.

With the Unified Primary Act, choices in the general election would not be limited to those produced only by Democratic or Republican voters.

The Unified Primary Act is Different from the California and Washington Systems

The Unified Primary Act is quite different from the "Top 2" systems in place in California and Washington. Those systems allow “party label hijacking”: Any candidate can place the name of any party next to her name on both the primary and general election ballots, even if the person has utterly no connection to the party or its tenets. This erodes the meaning of party labels on the ballot. Even a neo-Nazi can claim to be a Democrat or Republican or Green, etc.

This also creates opportunity for skulduggery. One effective technique for winning a Top 2 primary is to flood the zone with candidates identified as affiliated with the other major party. The more "Republican" candidates in the primary, the less likely any of them will advance to the general election, for example.

The Unified Primary Act does not allow party label hijacking. No candidate can display the name of a party on the ballot, unless the party has actually endorsed that candidate. Any party can endorse as many candidates as it wishes on both the primary and general election ballots. Any candidate can list on the primary and general election ballots the names of up to 3 parties that have endorsed the candidate. This allows a candidate to assemble a broad coalition of voters. Authentic party endorsements on the primary and general election ballot encourage political party participation and provide important information for voters.

The California and Washington systems also cause "vote splitting" that can produce undemocratic results, even if no one deliberately floods the zone. For example, say an incumbent Democrat in a heavily Democratic district retires. Six

younger candidates leap at the opportunity and file to run in the primary, each showing "Democratic" next their names on the primary ballot. Only 2 candidates label themselves "Republican." The 6 Democrats split the Democratic vote, and the 2 Republicans advance to the general election in a heavily Democratic district. This has happened in races for the California Legislature and U.S. Congress. The Unified Primary Act allows every political party to avoid this vote splitting.

Another disadvantage of the California and Washington systems is that they preclude minor party candidacies and preclude anyone from earning a place on the general election ballot by collecting sufficient voter signatures. This effectively strengthens a 2-party duopoly. The Unified Primary Act allows candidates to gather signatures to appear on the general election ballot and allows minor parties to nominate their own candidates, if they wish.

In sum, I encourage you to pass HB 3166-2 to let all registered Oregon voters vote from a unified primary ballot as an important reform for Oregon democracy.

CONSOLIDATED OREGON INDIVISIBLE NETWORK

INDEPENDENT PARTY OF OREGON

OREGON PROGRESSIVE PARTY www.ProgParty.org