

March 29, 2025

**Position on Bills at 2025  
Session of Oregon Legislature:**

**HB 3908: Support**



The Independent Party of Oregon (IPO) supports HB 3908, which would increase the threshold for compelling a “minor political party” to be a “major political party” under Oregon law.

The current threshold is “five percent of the number of electors registered in this state . . . as members of the party not later than the 275th day before the date of a primary election.” ORS 248.006(1).

HB 3908 changes that threshold from 5% to 10%. It makes no other changes.

The Independent Party of Oregon is again on the brink of having registered members in excess of 5.0% of all Oregon registered voters. The 275<sup>th</sup> day before the next primary election is August 17, 2025. If IPO has registered members in excess of that 5.0% as of that date, it automatically becomes a major party under existing law.

The leadership of IPO has requested this legislation because of concerns about ways the current major party laws restrict the party during its development. . IPO was a minor party during the 2008-2014 election cycles and then a major party for the 2016 and 2018 election cycles before reverting back to a minor party for the 2020-2024 election cycles. Oregon law requiring political parties to run candidates in all 75 state legislative districts while restricting who can run in major party primaries and mandating that such primaries can be won by write-in candidates who have nothing to do with the party almost destroyed the IPO in 2016 and 2018. These problems are explained in detail in the attached IPO memorandum from 2017, which summarized:

Current statutes impose requirements on major party primaries that will be harmful to IPO in its formative years as a major party. These laws:

1. Restrict candidates in a major party primary to persons who have been members of the party for 180 days prior to the filing deadline (250 days before the primary election) (ORS 249.046).
2. Allow anyone, including non-members of IPO, to win the major party primary by write-in, while providing a huge advantage to the Democratic and Republican candidates for the same seat who can win the IPO primary by write-in: a laudatory self-authored statement in every Voters'

Pamphlet that no other write-in candidate is allowed. (ORS 254.365).

3. Threaten IPO with the very real prospect of yo-yoing between major and minor party status for years or even decades, destroying the ability of the party to recruit candidates and plan for elections.

While these laws may be reasonable for large major parties with long-term members, they are crippling to a new major party that hovers at only 5% of Oregon registered voters. These laws impair the freedom of speech and association of IPO and its members and potential candidates.

The result was that persons who wanted to run in the IPO primary were turned away, because they had not been members of IPO for 250 days before the primary election. That left many IPO primary contests blank, so each of them was determined by write-in votes. The Democratic or Republican candidate won almost all of those races, largely because only they were allowed to have their own laudatory statements in the state-published and distributed Voters Pamphlet. Existing law did not allow any other write-in candidate to have any statement in the Voters' Pamphlet (and would not allow it in 2026, if IPO is a major party then). This deprived voters in the general election from considering candidates other than Democrats or Republicans, and it effectively put those two parties in control of IPO's nominations.

We believe that these laws violate the speech and association rights of IPO under the First Amendment to the U.S. Constitution. Until IPO reverted back to minor party status in 2020, we were prepared to file suit to invalidate the current laws.

HB 3908 is a simple way to avoid these problems. IPO has hovered around 5% of all Oregon registered voters for a decade. The result under existing law is that IPO since 2014 has been a minor party, then major party, then minor party, then major party. It is very unlikely that IPO's membership will reach 10% of Oregon registered voters in the foreseeable future, so HB 3908 will stop the yo-yoing.

## **Independent Party of Oregon**

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# Independent Party of Oregon

## **Changes Needed to Allow Functioning of IPO as Major Party and to Protect the Constitutional Rights of IPO and its Members**

**April 2017**

In 2014, 2015, and 2016, the Independent Party of Oregon (IPO) many times asked the Secretary of State and the state's legislative leadership to work with IPO to address challenges resulting from reaching major party status and the impact of the Motor Voter law on IPO. This included asking the Legislature to change the laws applicable to fledgling major parties so that the IPO could function effectively and provide voters with new voices and new choices. Those requests resulted in no changes, apart from a 2-year fix to the party membership threshold described below.

Existing statutes make it impossible to function as an effective major party. As noted in one of many of our pieces distributed to the Legislature in those years (attached):

**Current statutes impose requirements on major party primaries that will be harmful to IPO in its formative years as a major party. These laws:**

- 1. Restrict candidates in a major party primary to persons who have been members of the party for 180 days prior to the filing deadline (250 days before the primary election) (ORS 249.046).**
- 2. Allow anyone, including non-members of IPO, to win the major party primary by write-in, while providing a huge advantage to the Democratic and Republican candidates for the same seat: a laudatory statement in every Voters' Pamphlet that no other write-in candidate is allowed. (ORS 254.365).**
- 3. Threaten IPO with the very real prospect of yo-yoing between major and minor party status for years or even decades, destroying the ability of the party to recruit candidates and plan for elections.**

While these laws may be reasonable for large major parties with long-term members, they are crippling to a new major party that hovers at only 5% of Oregon registered voters. These laws impair the freedom of speech and association of IPO and its members and potential candidates.

## **THE PROBLEMS**

### **1. THE 250-DAY PARTY MEMBERSHIP REQUIREMENT DECIMATES THE POPULATION OF POTENTIAL IPO CANDIDATES IN THE PRIMARY ELECTION.**

Our prediction that these statutes would severely impair the functioning of IPO in the 2016 elections was entirely accurate. We predicted that the 250-day party membership requirement for anyone seeking to run in the IPO primary election would result in very few declared candidates. We were right. Of the 75 seats in the Legislature up for election, only 12 IPO members were allowed to file as candidates for those seats in the primary election. We received numerous inquiries from potential primary candidates after September 10, 2015, but Oregon statutes banned anyone from filing for the 2016 IPO primary election who had not been an IPO member continuously since September 10, 2015. So we had to tell those potential candidates to forget about running.

Several citizens, including Tamie Kaufman, Sami Abdul Abdrabbuh, Todd Kepple and others wanted to file to run in the IPO primary but could not, because they missed the 250-day advance registration deadline. As a result, each of them found themselves losing in "write-in" races with major party candidates who appeared in the Voters' Pamphlet and had the backing of institutional players.

IPO members have joined a new party. They are not likely to be career politicians or to have planned to run for office 14 months in advance of the general election, which is what current law requires. The 250-day requirement impairs the constitutional rights of IPO members and IPO itself to select candidates in the primary election.

When a minor party, IPO rules made all IPO members were automatically eligible to run in the IPO primary, while a caucus (elected by the party membership) vetted each non-IPO member seeking the run in the IPO primary and allowed those whose policies and practices were consistent with the IPO platform. That was crucial to preventing insider candidates who may not support the party or its agenda from using the cross-nomination process as a means of restricting competition on the November ballot.

### **2. THE "ANYONE CAN WIN BY WRITE-IN" LAW ALLOWS THE OTHER MAJOR PARTY CANDIDATES TO UNFAIRLY CAPTURE THE IPO NOMINATIONS.**

ORS 254.365 allows anyone, including non-members of IPO, to win the major party primary by write-in. We correctly predicted that most IPO nominations would be won by the candidates already nominated for the same offices by one of the large major parties. Every single IPO nomination for the Oregon Senate was won by the Republican or Democratic candidate for that same seat, as were nearly all IPO nominations for seats in the Oregon House of Representatives.

The Democratic and Republican candidates were able to be so successful in the IPO primary, because only they were allowed to have their own laudatory statements and attractive photos in the Voters' Pamphlet for the primary election. IPO members could see that the ballot lines for the legislative races were blank on the IPO primary ballot, leaving only space for a write-in:

"Whom should I write in? Well, I have here this Voters' Pamphlet that describes the wonderful attributes of the Democratic and Republican candidates for this seat, so I will write in one of them."

No other write-in candidate was allowed to have a single word in the Voters' Pamphlet, thus giving the Democratic and Republican candidates an insurmountable advantage and violating the constitutional rights of IPO members and IPO itself.

The current write-in law is often used as an anti-competitive tactic by some candidates of the two large major parties who have no interest in supporting IPO or its platform; they just want to limit competition on the November ballot and burnish their appearance on the ballot with the word "Independent" next to their names. This system denies IPO the right to establish reasonable standards by which its candidates are qualified and denies many Oregon voters an honest choice on the November ballot.

Even if the Democratic and Republican candidates did not seek the IPO nominations, the blanks caused by the 250-day membership requirement will be filled by persons receiving as few as 2 write-in votes, which further destroys the ability of IPO to maintain party cohesion.

### **3. THE FIXED "5% OF ALL REGISTERED VOTERS" BORDER BETWEEN MAJOR AND MINOR PARTY STATUS DESTROYS IPO'S ABILITY TO PLAN FOR FUTURE ELECTIONS.**

Under current law, the major party status of IPO for the election cycle is determined in August of each odd-numbered year. If IPO's membership exceeds 5% of all Oregon registered voters, it is a major party. Otherwise, it is a minor party.

IPO first qualified for major party status in August 2015 for the 2016 election cycle. IPO's membership has continued to grow. But, due to the large influx of new registrants from the new Motor Voter law, IPO is now down to 4.6%. That percentage will continue to decline, because most new registrants are produced through the new Motor Voter system, which separates the process of registering to vote from the process of choosing a party. Instead of being asked whether one wants to join a party at the time of registration (the previous system in place at DMV), the Motor Voter system automatically registers as NAV's persons who are not registered and then only weeks later in a letter asks whether the person wants to join a party. The result of this separation of registration and party choice is that only 12% of those registered through Motor Voter have joined any political party. Previously, about 70% of all registered voters were party members.

In order to maintain a membership level of 5% of all Oregon registered voters, IPO would need to attract literally over 40% of all new registrants who do choose a party--clearly impossible.

This problem was temporarily "fixed" by the Oregon Legislature by SB 1599 (2016), which for one election cycle froze the denominator in the calculation at the total number of Oregon registered voters as of July 1, 2015 (2,163,634). IPO is currently at 120,145, which is 5.6% of that number. That "fix" expires at the end of 2018. And fixing the denominator is not an overall fix anyway. Due to the fact that 88% of the Motor Voter registrants are not choosing any party, the absolute registration numbers of all parties will decline, as existing members are lost due to death or moving out of Oregon.

So IPO faces the prospect of losing major party status after 2018 and yo-yoing between major and minor party status for several years. So every 2 years the party and its potential candidates will not know if the party is even going to have a state-run primary election until literally 3 weeks before the filing period for that election begins.

## **THE SOLUTIONS**

1. Address each of the 3 problems above by amending statutes that pertain to major parties:
  - A. Amending ORS 249.046 to allow each major party to determine its own pre-primary party membership duration requirement.
  - B. Amending ORS 254.365 to allow each major party to determine for itself whether write-in candidates must be party members and how many votes a write-in candidate must receive in order to earn the nomination.
  - C. Amending existing law to reduce the major party registration threshold to a level that is reasonable in system where new registration is dominated by the Motor Voter system.

Legislative Counsel drafted a bill for the first 2 changes in the 2015 session. HB 3287 (2015) is attached, along with testimonies by Dan Meek, Sal Peralta, and Rob Harris and a technical -1 amendment supported by IPO.

The 2016 and 2017 sessions of the Legislature have seen no movement to fix these problems.

2. IPO pursues litigation to assert the constitutional rights of IPO members and IPO itself to representation on the primary ballot uncontaminated by (1) burdensome membership duration requirements, (2) unfair interference from candidates of the other parties, and (3) constant uncertainty about the major v. minor party status of IPO.

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# House Bill 3287

Sponsored by Representative BUEHLER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits major political parties to establish membership duration requirements for primary candidates by certified party rule filed with Secretary of State.

Permits major political parties to determine by certified party rule whether persons not affiliated with party can win party nomination by write-in vote or whether write-in candidates must receive certain percentage of votes to be nominated.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to primary elections of major political parties; creating new provisions; amending ORS  
3 249.046, 254.365 and 254.500; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 249.046 is amended to read:

6 249.046. (1) **Not later than the 70th day before the primary election, a major political party**  
7 **may file with the Secretary of State a certified copy of the current party rule establishing**  
8 **the period of time for which a candidate must be a member of the party in order to be en-**  
9 **titled to receive the nomination of that party.**

10 (2)(a) **Unless a major political party files a certified rule under subsection (1) of this**  
11 **section, [if] a candidate who** has not been a member of the major political party for at least 180  
12 days before the deadline for filing a nominating petition or declaration of candidacy[, *the candidate*  
13 *shall*] **is not [be] entitled to receive the nomination of that major political party.**

14 (b) If a candidate's registration becomes inactive, the inactive status shall not constitute a lapse  
15 of membership in the party if, immediately before the registration became inactive, the candidate  
16 was a member of the party and was not a member of any other political party within the 180 days  
17 preceding the deadline for filing a nominating petition or declaration of candidacy.

18 (c) The requirement that the candidate be qualified by length of membership does not apply to  
19 any candidate whose 18th birthday falls within the period of 180 days or to a write-in candidate.

20 **SECTION 2.** ORS 254.365 is amended to read:

21 254.365. (1) An elector is not qualified or permitted to vote at any primary election for any  
22 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

23 (a) The elector is registered as being affiliated with one of the major political parties nominating  
24 or electing its candidates for public office at the primary election; or

25 (b) The elector is registered as not being affiliated with any political party and wishes to vote  
26 in the primary election of a major political party that has provided under subsection (3) of this  
27 section for a primary election that admits electors not affiliated with any political party.

28 (2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election  
29 shall be given a ballot of the major political party with which the elector is registered as being af-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



1 affiliated. The elector may not be given a ballot of any other political party at that primary election.  
 2 An elector not affiliated with any political party and offering to vote at the primary election shall  
 3 be given the ballot of the major political party in whose primary election the elector wishes to vote  
 4 if that party has provided under subsection (3) of this section for a primary election that admits  
 5 electors not affiliated with any political party. An elector not affiliated with any political party who  
 6 is given a ballot of the major political party associates with the party for the purpose of voting in  
 7 that primary election.

8 (3)[(a)] Not later than the 90th day before the date of the primary election, a major political  
 9 party may file with the Secretary of State a certified copy of the current party rule:

10 (a) Allowing an elector not affiliated with any political party to vote in the party’s primary  
 11 election. The party may not repeal the rule as filed during the 90 days before the primary election.  
 12 The rule shall continue to be effective after the date of the primary election until the party gives  
 13 written notice to the Secretary of State that the rule has been repealed. *[Except as provided in*  
 14 *paragraph (b) of this subsection,]* A party rule under this *[subsection]* **paragraph** may limit the candi-  
 15 dates for whom an elector who is not affiliated with any political party may vote[.], **with the**  
 16 **exception that the party rule shall allow any elector who is permitted to vote for the most**  
 17 **numerous branch of the Legislative Assembly also to vote in federal legislative elections,**  
 18 **consistent with section 2, Article I, and the Seventeenth Amendment to the United States**  
 19 **Constitution.**

20 (b) **Prohibiting a write-in candidate who is not affiliated with the major political party**  
 21 **from being eligible to receive the nomination of the major political party.**

22 (c) **Establishing a minimum percentage of the total votes cast that must be received by**  
 23 **a write-in candidate who is not affiliated with the major political party in order for the**  
 24 **write-in candidate to receive the nomination of the party.**

25 *[(b) The party rule shall allow any elector who is permitted to vote for the most numerous branch*  
 26 *of the Legislative Assembly also to vote in federal legislative elections, consistent with section 2, Article*  
 27 *I, and the Seventeenth Amendment to the United States Constitution.]*

28 (4) If the primary election ballot includes city, county or nonpartisan offices or measures, and  
 29 it is given to an elector who is not eligible to vote for party candidates, the ballot shall be marked  
 30 “non-affiliated.”

31 **SECTION 3.** ORS 254.500 is amended to read:

32 254.500. (1) This section governs the tally of votes cast for persons whose names were not  
 33 printed on the ballot but are written in by electors. All such write-in votes for each office on the  
 34 ballot shall be tallied together, except as follows:

35 (a) If the total number of write-in votes for candidates for the same nomination or office equals  
 36 or exceeds the number of votes cast for any candidate for the same nomination or office on the  
 37 ballot who appears to have been nominated or elected, the county clerk shall tally all write-in votes  
 38 cast for the office to show the total number of votes cast for each write-in candidate.

39 (b) If no names of candidates are printed on the ballot for an office, the county clerk shall tally  
 40 the votes cast for each candidate for the office who received a vote.

41 **(2) In primary elections for major political parties, elections officials may not tally**  
 42 **write-in votes cast for candidates who are not eligible to receive the nomination of the major**  
 43 **political party under certified rules submitted to the Secretary of State by the major political**  
 44 **party under ORS 254.365.**

45 [(2)] (3) No person other than the county clerk, a member of a counting board or any other

1 elections official designated by the county clerk may tally write-in votes.

2 **SECTION 4. The amendments to ORS 249.046, 254.365 and 254.500 by sections 1 to 3 of this**  
3 **2015 Act first apply to primary elections held on or after the effective date of this 2015 Act.**

4 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**  
5 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
6 **on its passage.**

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**PROPOSED AMENDMENTS TO  
HOUSE BILL 3287**

1 On page 1 of the printed bill, line 3, delete “249.046, 254.365 and 254.500”  
2 and insert “249.046 and 254.365”.

3 Delete lines 5 through 29.

4 Delete pages 2 and 3 and insert:

5 **“SECTION 1. ORS 249.046 is amended to read:**

6 **“249.046. (1) Not later than the 180th day before the primary election,**  
7 **a major political party may file with the Secretary of State a certified**  
8 **copy of the current party rule establishing the period of time for which**  
9 **a candidate, including a write-in candidate, must be a member of the**  
10 **party in order to be entitled to receive the nomination of that party.**

11 **“(2)(a) Unless a major political party files a certified rule under**  
12 **subsection (1) of this section, [if] a candidate who has not been a member**  
13 **of the major political party for at least 180 days before the deadline for filing**  
14 **a nominating petition or declaration of candidacy[, the candidate shall] is**  
15 **not [be] entitled to receive the nomination of that major political party.**

16 **“(b) If a candidate’s registration becomes inactive, the inactive status**  
17 **shall not constitute a lapse of membership in the party if, immediately before**  
18 **the registration became inactive, the candidate was a member of the party**  
19 **and was not a member of any other political party within the 180 days pre-**  
20 **ceding the deadline for filing a nominating petition or declaration of candi-**  
21 **dacy.**

22 **“(c) The requirement that the candidate be qualified by length of mem-**

1   bership does not apply:

2       “(A) To any candidate whose 18th birthday falls within the period of 180  
3   days; or

4       “(B) **Unless a major political party files a certified rule under sub-**  
5   **section (1) of this section,** to a write-in candidate.

6       “**SECTION 2.** ORS 254.365 is amended to read:

7       “254.365. (1) An elector is not qualified or permitted to vote at any pri-  
8   mary election for any candidate of a major political party, and it is unlawful  
9   for the elector to offer to do so, unless:

10      “(a) The elector is registered as being affiliated with one of the major  
11   political parties nominating or electing its candidates for public office at the  
12   primary election; or

13      “(b) The elector is registered as not being affiliated with any political  
14   party and wishes to vote in the primary election of a major political party  
15   that has provided under subsection (3) of this section for a primary election  
16   that admits electors not affiliated with any political party.

17      “(2) Except as provided in ORS 254.470 (3), any elector offering to vote  
18   at the primary election shall be given a ballot of the major political party  
19   with which the elector is registered as being affiliated. The elector may not  
20   be given a ballot of any other political party at that primary election. An  
21   elector not affiliated with any political party and offering to vote at the  
22   primary election shall be given the ballot of the major political party in  
23   whose primary election the elector wishes to vote if that party has provided  
24   under subsection (3) of this section for a primary election that admits elec-  
25   tors not affiliated with any political party. An elector not affiliated with any  
26   political party who is given a ballot of the major political party associates  
27   with the party for the purpose of voting in that primary election.

28      “(3)[(a)] Not later than the 90th day before the date of the primary  
29   election, a major political party may file with the Secretary of State a cer-  
30   tified copy of the current party rule:

1       “(a) Allowing an elector not affiliated with any political party to vote in  
2 the party’s primary election. The party may not repeal the rule as filed  
3 during the 90 days before the primary election. The rule shall continue to  
4 be effective after the date of the primary election until the party gives  
5 written notice to the Secretary of State that the rule has been repealed.  
6 *[Except as provided in paragraph (b) of this subsection,]* A party rule under  
7 this *[subsection]* **paragraph** may limit the candidates for whom an elector  
8 who is not affiliated with any political party may vote[.], **with the excep-**  
9 **tion that the party rule shall allow any elector who is permitted to**  
10 **vote for the most numerous branch of the Legislative Assembly also**  
11 **to vote in federal legislative elections, consistent with Article I, sec-**  
12 **tion 2, and the Seventeenth Amendment to the United States Consti-**  
13 **tution.**

14       “(b) Establishing that in order to receive the nomination of the  
15 party, a write-in candidate must receive a number of votes equal to a  
16 percentage, specified in the party rule, of the total number of electors  
17 eligible to vote in the party’s primary election for the office sought.

18       “*[(b) The party rule shall allow any elector who is permitted to vote for the*  
19 *most numerous branch of the Legislative Assembly also to vote in federal leg-*  
20 *islative elections, consistent with section 2, Article I, and the Seventeenth*  
21 *Amendment to the United States Constitution.]*

22       “(4) If the primary election ballot includes city, county or nonpartisan  
23 offices or measures, and it is given to an elector who is not eligible to vote  
24 for party candidates, the ballot shall be marked ‘non-affiliated.’

25       “**SECTION 3. The amendments to ORS 249.046 and 254.365 by**  
26 **sections 1 and 2 of this 2015 Act first apply to primary elections held**  
27 **on or after the effective date of this 2015 Act.**

28       “**SECTION 4. This 2015 Act being necessary for the immediate**  
29 **preservation of the public peace, health and safety, an emergency is**  
30 **declared to exist, and this 2015 Act takes effect on its passage.”.**

## Testimony of Dan Meek on HB 3287:

### permits major political parties to establish membership duration requirements for primary candidates

before the House Committee on Rules  
April 15, 2015



The Independent Party of Oregon (IPO) supports HB 3287 and would support it more with a technical amendment.

IPO is Oregon's third major party, its membership having exceeded the threshold for major party status (5% of the total of all Oregon registered voters at the time of the November 2014 general election). IPO currently has 109,378 registered members. The threshold for 2016 major party status is 108,739 members. The final determination on major party status is to be made by the Secretary of State by August 16, 2015.

HB 3287 would enable the IPO 2016 primary election to offer a larger number of candidates to voters. Last week the IPO adopted a rule allowing all NAVs to vote in its 2016 primary election. But IPO members and NAVs may see a limited number of candidates on that IPO ballot, without adoption of HB 3287.

Current statutes impose requirements on major party primaries that will impede IPO in its formative years as a major party. HB 3287 would reduce or remove those requirements.

**1. Current statutes restrict candidates in major party primary to persons who have been members of the party for 180 days prior to the filing deadline (effectively 250 days before the primary election) (ORS 249.046).**

Under existing law, no one can run as a candidate in any major party primary who has not, at that time, been a member of that major party for all of the previous 250 days (180 days before the candidate filing last date). Thus, the deadline for a potential candidate to become an IPO member is September 10, 2015--which may be a mere 25 days after IPO is finally determined by the Secretary of State to be a major party for the 2016 elections.

While an 8-month pre-primary party membership duration requirement is no problem for long-established major parties, which have stables of potential candidates, it will be a large barrier to participation by political novices or others interested in earning the nomination of a new major party. Many of them will not be planning to run for office more than 8

months in advance of the primary election. And others will be unaware of the 250-day party membership requirement in existing law.

HB 3287 solves this problem by allowing each major party to adopt a rule establishing the pre-primary party membership duration requirement. The Democratic and Republican parties may wish to keep the current 250-day requirement. But IPO would significantly reduce that requirement, so that it precludes fewer potential candidates from running in IPO primary elections.

**2. Current statutes allow anyone, including non-members, to win a major party primary by write-in of only a few votes.**

Due in part to the above restriction, many partisan offices on the IPO 2016 primary ballot will likely offer no filed candidates. The ballot will show those contests but offer only the opportunity for write-in votes.

The law requiring party membership for a candidate does not apply to write-in candidates. Thus, most of the IPO nominations for the 2016 election cycle may well be won by write-in candidates, most of whom could have no connection with IPO, and each receiving a small handful of votes.

HB 3287 solves this problem by restricting write-in winners to those who:

- (1) are eligible to receive the nomination of the major party under its party membership duration rule; and
- (2) earn a party-specified portion of votes sufficient to indicate a meaningful level of support from those voting in the party primary.

Legislative Counsel has drafted a technical amendment that would allow the major party to require a write-in winner to have received votes at least equal to a specified minimum percentage of the total number of electors eligible to vote in that contest (rather than a "minimum percentage of the total votes cast," which is ambiguous).

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## TESTIMONY ON HB 3287

Date: April 14<sup>th</sup>, 2015  
To: House Rules Committee

Dear Chair Hoyle and Members of The Committee,

My name is Robert Harris and I'm a Hillsboro business owner, attorney and senior policy advisor to the Independent Party of Oregon (IPO). I speak in support of HB 3287 as an Independent voter and election reformer and ask that this written testimony be made a part of the Legislative record.

HB 3287 is an important step in opening up the primary process to more candidates and thus voters. It improves the process by making elections more competitive and attracting more voters. Without this change, the IPO will be hard pressed to recruit enough talented candidates to run many competitive races in the 2016 election and non affiliated voters whom the IPO seeks to empower in the May 2016 primary will again be short changed.

I closely followed the Measure 90 (Top Two primary) election last November. It was notable that while people disagreed whether a top two primary was a good or bad idea, everyone was concerned about the growing number of people who were being excluded from the election process. While one can argue that that exclusion is self selecting, the reality is, over 50% of new voters are opting to not join the Democratic or Republican Parties.

In response to that concern, Rep. Hoyle sponsored HB 3500, allowing non affiliated voters the opportunity to register as a major party member concurrently with returning a major party primary election ballot. I understand that concept is going continue to be studied by a work group going forward and I support that. In the meantime, HB 3287 is a crucial factor in expanding participation in the 2016 primary election. Here's how.

There have been two important developments recently for NAVs. First, the Independent Party of Oregon reached major party status in February, 2015. Second, The Independent Party last week voted to open up its primary election to NAV voters.

NAVs will now have the opportunity to participate in the May partisan IPO primary elections, if they want to. The problem is under current law the IPO faces stiff restrictions as to who it may qualify as its candidates. And with few candidates, NAVs may choose not to participate in the IPO open primary. HB 3287 addresses that problem. Without this change IPO primary could have over 650,000 eligible voters, but few candidates. Thus discouraging participation by NAVs.

And, there is simply no logic behind a State mandated requirement for party

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April 14th, 2015

Letter to House Rules Committee

candidates to have membership duration requirements. While fear of a party switching candidate hijacking a nomination is real, it's an issue that can and should be resolved by the parties by rule adopted by the party itself. If the Democratic or Republican Party opts to keep the current candidate requirements, it can do so. As many anti Measure 90 people argued, candidates should be selected by the parties. If that is so, then shouldn't candidate criteria should also be set by the parties, not the State Legislature?


Many of you recognize the threat to confidence in government when more people don't, or can't, participate in elections. Rep. Hoyle started a good discussion with HB 3500 and her commitment to continue that discussion. Now, because of the IPO's new major party status and its decision to open up its primary to NAVs, adopting HB 3287 would mark a significant step towards recognizing the rights of non affiliated voters to participate in elections. But without candidates, elections are a moot point. Passing HB 3287 is a significant step forward for election reform. And, importantly, it would prove that our Legislators are serious about empowering independent voters.

Here is the key question. What really is the point of the 250 day law that can't be achieved through party rule? Especially as there is no similar concern about write in candidates, where under current law a non party member can win a party nomination with a handful of write in votes.

Then ask yourself whether allowing the parties to set their own candidate qualification rules and getting more candidates and voters involved in a more robust primary election is good for Democracy, a good way to rebuild faith in government and good for Oregonians and Oregon.

I'm asking you to support HB3287, empower the political parties to set police their own candidates, and give us the tools necessary to give non affiliated voters some choices in 2016. Allow the IPO the time necessary to recruit good candidates to run for public office. It's good for Oregon.

Thank you for your time and consideration.



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## IPO TESTIMONY ON HB 3287

April 15, 2015

Chair Hoyle, Members of the Committee,

### HB 3287

#### Relating to primary elections of major political parties

HB 3287 is an attempt to bring ORS 249.046, which is the Oregon statute that establishes qualifications to run for public office as a candidate of a major political party, into greater harmony with Article I, Section 8 and Article IV, Section 8 of the Oregon Constitution and with the First Amendment of the US Constitution.

As currently drafted, ORS 249.046 requires candidates to be a member of a major political party for 180 days before the primary election deadline in order to appear as a candidate of that political party on the May Primary ballot.

- **The statute is overbroad.** There is no compelling state interest met by the statute that could not be accomplished by a law that is more narrowly tailored.
- **The statute is applied arbitrarily** (i.e., it applies only to major political parties and not to minor political parties). It creates an undue burden on a newer, smaller, party like ours, which has not had decades to build a stable of candidates.
- The statute, as specifically applied to the Independent Party of Oregon, appears to be contrary to associational rights between the party and its nominees that have been exercised across 5 election cycles involving more than 150 candidates, including several members of this committee.
- The statute applies burdens on running for public office that go beyond those contained in Article IV, Section 8 of the Oregon Constitution.

**HB 3287 fixes the constitutional questions invited by ORS 249.046 by enumerating some basic rights that should be reserved to political parties rather than to the state.**



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- It allows political parties to establish their own rules for whether a candidate *\*must\** be a member of a political party in order to seek that party's nomination and appear on the May Primary ballot. Currently, in order to appear on a major party's May Primary ballot, a candidate must be a member for at least 180 days prior to the May filing deadline.
- It allows political parties to establish their own rules on whether to allow non-members to win the party's write-in.
- It allows political parties to establish their own rules to determine whether a minimum number of write-ins are needed in order to win

## IPO TESTIMONY ON HB 3287

the party's nomination.

**There is no compelling state interest served in establishing party membership requirements that go beyond requirements adopted by the parties themselves.**

We believe that a legislative solution during the current legislative session is preferable to a legal challenge, since the timetable of a legal challenge may cause uncertainty with regard to the administration of the 2016 election. A legislative solution that provides greater certainty to political parties and their candidates should be considered.