

# TESTIMONY ON HJR 201

Before the House Rules Committee  
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I am testifying in favor of HJR 201 on behalf of the Independent Party of Oregon and the Oregon Progressive Party.

I am a public interest attorney with 47+ years of experience. I have specialized in election law for about 25 years.

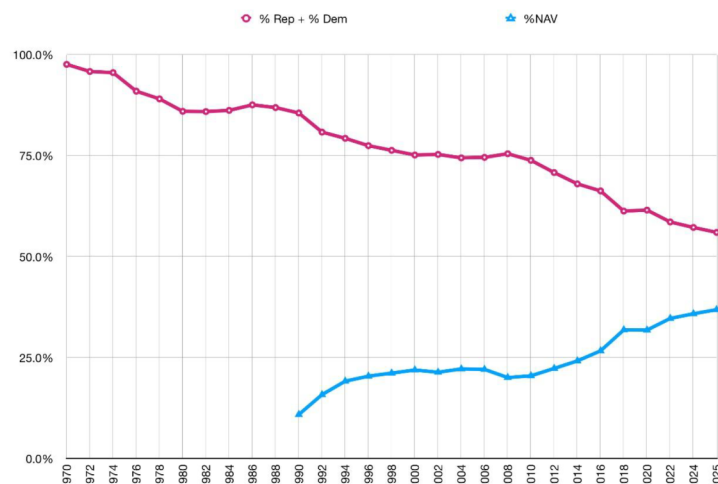
## Many Oregon Voters are Excluded from Voting for Candidates in the Primary Election

HJR 201 would allow every registered voter to in every election, regardless of the voter's party affiliation or non-affiliation. It would also unify the currently separate primaries of the major parties, Democratic and Republican, with the highest 2 voter earners for each partisan office advancing to the general election.

Currently, 44% (1.36 million) Oregon active registered 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, and State Representative. The 1.14 million non-affiliated voters (NAVs) alone outnumber Democrats and outnumber Republicans.

The number of NAVs has increased dramatically since 1970, when nearly 100% of registered Oregon voters were members of the 2 major parties. This chart shows major party members in red and NAVs in blue since 1970.

[credit to Aaron Landau]



With HJR 201 -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.

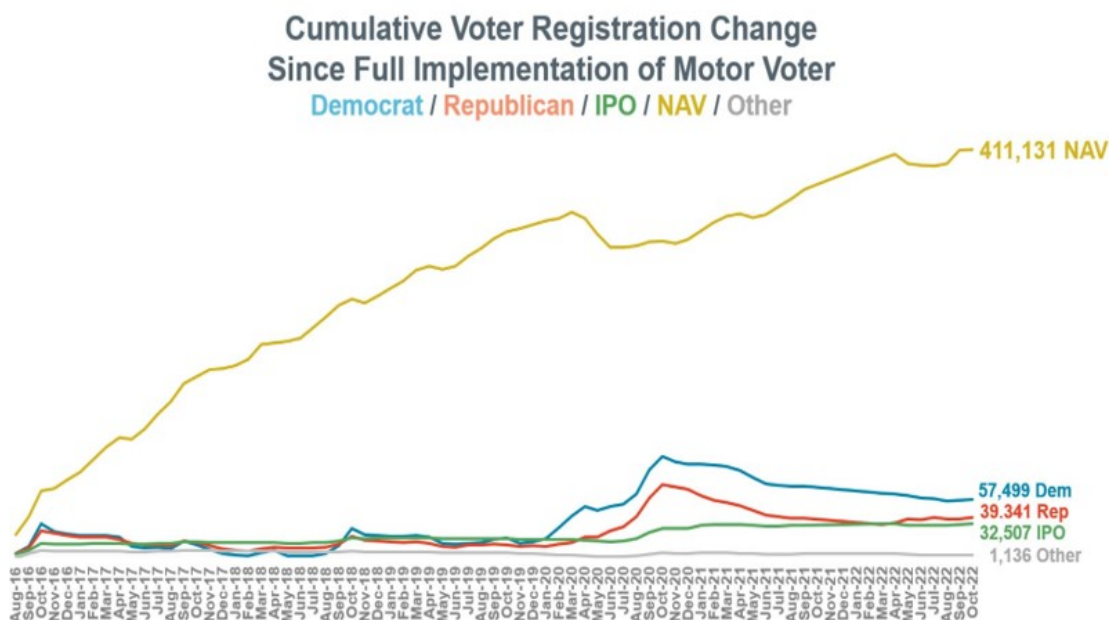
John Horvick, noted Oregon political analyst, writes:

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



## **Primary Elections Often Determine Who Serves in Government**

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.

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

- Of the 30 Senate districts, 21 have Democratic v. Republican splits more lopsided than 60-40. 14 Senate districts split more than 60% Democratic. 7 other Senate districts split more than 60% Republican. If we consider districts that split less evenly than 55-45 between the major parties as safe, the number of safe districts increases to 26 out of 30.
- Of the 60 House districts, 38 have Democratic v. Republican splits more lopsided than 60-40. 25 House districts split more than 60% Democratic. 13 other House districts split more than 60% Republican. If we consider districts that split less evenly than 55-45 between the major parties as safe, the number of safe districts increases to 52 out of 60.

HJR 201 would allow every registered voter to vote for candidates for partisan offices in the primary election and in the general election. Choices in the general election would not be limited to those produced only by Democratic or Republican members.

## **HJR 201 is Very Different from the "Top 2" Systems 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 ballot, even if the person has 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.

Some political operatives have even flooded the zone with candidates having the same name as prominent opponents. Bob Ferguson was Attorney General of Washington running for Governor in 2024.

Opponents recruited 2 other persons named "Bob Ferguson" to run in the Top 2 primary. The press reported that media personality Glen Morgan had paid the fake Fergusons to file. Both of them chose "Democratic Party" to be next to their names on the primary ballot. The Secretary of State conducted a lottery to determine the positions of the 28 candidates for Governor on the primary ballot. The phonies were #2 and #3. The real Bob Ferguson was listed in the 13th position. As Attorney General, the real Bob Ferguson filed a lawsuit against the phony Fergusons, who both dropped out of the primary at the last minute. If the victim of this scheme had not already been Attorney General, the outcome could have been different.

HJR 201 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. The party must decide on endorsements with processes fair and open to all party members. 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.

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Another disadvantage of the California and Washington systems is that they strip all nomination authority from minor political parties and preclude anyone from earning a place on the general election ballot by collecting sufficient voter signatures. This effectively strengthens a 2-party duopoly. HJR 201 allows candidates to gather signatures to appear on the general election ballot and allows minor parties to nominate their own candidates, if they wish, by opting out of the unified primary election.

In sum, I encourage you to pass HJR 201 to let all registered Oregon voters vote from a unified primary ballot as an important reform for Oregon democracy.

