March 21, 2017

To: House Committee on Rules
        Rep. Jennifer Williamson, Chair

Re: HB 2505, Expands definitions of independent expenditures and expenditures – **Comment**

The League of Women Voters of Oregon (LWVOR) and nationally (LWVUS) have supported disclosure of campaign financing of elections with their studies and advocacy positions since the 1970s.

An independent expenditure is now defined in ORS 260.005 as "an expenditure by a person for a communication in support of or in opposition to a clearly identified candidate or measure that is not made with the cooperation … of a candidate or … or any political committee …."

Section 1 of this bill would add another option to the definition of independent expenditures, so that anyone expending more than $750 in aggregate and clearly referring to a candidate, ballot measure, or political party in periods directly before a primary or general election must file a statement of independent expenditures.

However, one problem with this addition is that the $750 threshold is already in the ORS:
260.044 Statement of independent expenditures….
(1) If a person makes independent expenditures in a total amount of more than $750 in a calendar year, the person shall use the electronic filing system adopted under ORS 260.057 to file with the Secretary of State a statement of independent expenditures not later than seven calendar days after the total amount of independent expenditures exceeds $750 in a calendar year.

While the addition of political party to the definition of "clearly identified" in Section 1(10)(b)(B) may be useful, we do not see the problem that it is trying to solve. "Independent expenditure" already has a perfectly good definition.

Later in Section 2 (10), this bill would exclude from the definition of an expenditure (and therefore from an independent expenditure) any nonpartisan communication, such as a voters' guide, during defined periods before a primary or general election.

This section appears designed to exclude nonpartisan events like the League's candidate debates and forums and nonpartisan publications like the League's Voters' Guides. Our voters' guides are published in English, Spanish, easy-to-read, video, audio, and braille formats, and in an online interactive format at our VOTEResources. The League very much appreciates the consideration given to us for our statewide services to voters. This section of the bill may be

useful because such an exclusion has not previously been an explicit part of statute; although, such an exclusion has been implied by subsection (6) of this section for decades.

Unfortunately, these definitions are complicated and undergird some of the most important parts of Oregon's public disclosure law. They have decades of application and interpretation behind them. The League is concerned more complicated definitions may have unintended consequences. In fact, the League believes that, taken together, these changes are likely an unconstitutional infringement on free speech that courts have previously rejected.

While something like HB 2505 or HB 2584 may be useful now, if Oregon had contribution limits as recommended by the **Task Force on Campaign Finance Reform** in its proposed HJR 5, then new provisions of law to discourage Dark Money independent expenditures that try to evade the contribution limits would be even more important.

Thank you for the opportunity to discuss this legislation.

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