

# SENATE BILL REPORT

## SB 5078

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As of February 5, 2019

**Title:** An act relating to requiring disclosure of federal income tax returns of presidential and vice presidential candidates prior to appearing on the ballot.

**Brief Description:** Requiring disclosure of federal income tax returns of presidential and vice presidential candidates prior to appearing on the ballot.

**Sponsors:** Senators Kuderer, Hunt, Darneille, Saldaña, Conway, Frockt, Palumbo, Wellman, Pedersen, Mullet and Van De Wege.

**Brief History:**

**Committee Activity:** State Government, Tribal Relations & Elections: 2/01/19.

**Brief Summary of Bill**

- Requires that presidential and vice-presidential candidates release copies of their federal income tax returns for the last five years to appear on the ballot.

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### SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

**Staff:** Samuel Brown (786-7470)

**Background:** Presidential Preference Primary Ballot. The name of a candidate may appear on the presidential preference primary ballot by direction of the Secretary of State, if the candidacy is generally recognized in the news media, or if members of that candidate's party present a petition for nomination of the candidate signed by at least 1000 registered voters of the same political party as the candidate. A petition to nominate a candidate to appear on the presidential preference primary ballot must be submitted at least 75 days before the election.

The Secretary of State must certify the names of candidates on the presidential preference primary ballot by the fourth Tuesday in April before the election, which is held on the fourth Tuesday in May.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

General Election Ballot. Political parties are characterized as major or minor political parties. To qualify as a major political party, that party's nominees for president and vice-president must have received at least 5 percent of the vote in Washington at the previous presidential election. Major political parties may hold presidential preference primary elections for delegate allocation to the party's national convention. The presidential and vice-presidential nominees for each major political party, as determined at the party's convention, appear on the general election ballot.

Each minor political party or independent political convention that nominates candidates for president and vice president must file a certificate of nomination with the Secretary of State, signed by at least 1000 registered Washington voters, identifying the party's candidates for president and vice president for those candidates to appear on the general election ballot under that party or convention's banner.

**Summary of Bill:** To appear on the ballot for the presidential preference primary or the general election, candidates for president and vice-president must release copies of their five most recent personal federal income tax returns, 63 days before the election. The Secretary of State must publish copies of the tax returns online.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The 2016 election upended a norm in our political culture for 40 years of presidential candidates releasing their returns. Every Washingtonian has a right to transparency from who they elevate to the highest office in the land. Voters have a right to know a candidate's conflicts of interest, business ties, or obligations, or to whom a candidate might be beholden or biased. This is the best chance we have to clean up out-of-control corruption. Tax returns are audited for accuracy and present less opportunity to inflate claims of wealth than candidate disclosure statements. This would not be the only requirement for presidential candidates to get their names on the ballot. This will be popular with many voters. Think of this bill as sending candidates to obedience school—if they show progress, we will throw them a bone. Democracy is not a spectator sport and we must protect our institutions. It is essential that voters be able to see any foreign or domestic conflicts of interest. Amendments are suggested to split the sections regarding the primary and general election and add a severability clause, and to add a preamble. Information is needed for voters to estimate a candidate's risk for corruption and violation of the foreign emoluments clause.

CON: This seems ridiculously unconstitutional. Term limits were struck down because states can't add conditions on candidates for federal office. This might open the state up to liability. Data spills can and do happen—all it takes is one posting of unredacted personally identifying information for the state to be on the hook.

OTHER: We are concerned about potential unintended consequences. Courts have ruled against states adding qualifications to candidates for other federal offices and this could delay ballot printing and distribution.

**Persons Testifying:** PRO: Senator Patty Kuderer, Prime Sponsor; Steve Zemke, Catherine Griffith, Majority Rules; Susan Edwards, Presidential Transparency; Rim Miksys, Carol Butterfield, Deborah Viertel, citizen; Janet Way, citizen; Cindy Black, Fix Democracy First.

CON: Ryan Ottele, citizen; Tim Eyman, citizen.

OTHER: Jay Jennings, Office of the Secretary of State.

**Persons Signed In To Testify But Not Testifying:** No one.