

**STATEMENT OF BEN T. CLEMENTS  
BEFORE THE JOINT COMMITTEE ON ELECTION LAWS  
IN SUPPORT OF S. 365  
AN ACT RESTORING FINANCIAL TRANSPARENCY IN PRESIDENTIAL  
ELECTIONS**

**SEPTEMBER 6, 2017**

Chairs Gobi and Mahoney and Members of the Committee. My name is Ben Clements. I am a Boston attorney and the Chair of Free Speech for People, a national, non-partisan organization dedicated to fighting the corrupting influence of money in our elections and our government. I have also served as a public corruption prosecutor in the Boston U.S. Attorney's Office and as Chief Legal Counsel to Governor Patrick for his first term, both roles in which I frequently dealt with a wide variety of constitutional and statutory issues relating to the integrity of our elections and our government.

For most of the past half century, every serious candidate for president, including Donald Trump, publicly committed to releasing his or her tax returns to ensure the voting public had the opportunity to evaluate the candidate's financial background and potential conflicts of interest. And with the exception of Donald Trump, every candidate complied with that promise. It is now clear that this president is plagued by financial conflicts of interest and that the voters' ability to understand and assess those conflicts and to evaluate his candidacy would have profoundly benefited from the disclosure of his tax returns. If he is able to run again in 2020, he should be legally required to disclose them. This is a position shared by the vast majority of your constituents and, indeed, the vast majority of Americans, including supporters of this president.

But Senate Bill 365 is not primarily about the current president. This bill is about whether we are ever again going to have financial transparency in our presidential elections. Senate Bill 365 would restore financial transparency by requiring presidential candidates to publicly disclose their most recent tax returns in order to appear on the Massachusetts ballot.

Some have argued that while presidential candidates should disclose their tax returns, the Constitution prohibits states from requiring them to do so. This is a misunderstanding of the Constitution. It is well established that the procedures governing elections for federal office, including the presidency, are set at the state level. The Supreme Court has specifically recognized that the individual states are entitled to enact requirements to “protect the integrity and reliability of the [presidential] electoral process,”<sup>1</sup> including “fostering informed and educated expressions of the popular will in a general election.”<sup>2</sup>

What a state may not do is impose substantive qualifications beyond those set forth in the Constitution, so as to exclude a whole class of candidates. For example, a state may not require prior military or government service as a condition of appearing as a candidate nor may it disqualify candidates based on their biographical or professional histories. Senate Bill 365 does neither. It excludes no class of candidates, but simply imposes a procedural disclosure requirement squarely directed at facilitating an informed electorate and protecting the integrity of the electoral process. Any candidate is capable of providing copies of his or her most recent tax returns as readily or in some cases, more readily, than complying with current and clearly permissible requirements of Massachusetts law such as submitting voter signatures. Senate Bill 365 is an essential and constitutionally appropriate step toward restoring transparency and integrity to our presidential election process and I urge you to support it.

Thank you.

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<sup>1</sup> *Anderson v. Celebrezze*, 460 U.S. 780, 788, n. 9 (1983)).

<sup>2</sup> *Anderson*, 460 U.S. at 796.