

Top News

Running for president? Some states want tax returns public

Associated Press

Posted March 19, 2017

March 19, 2017

Updated March 19, 2017 8:15am



ASSOCIATED PRESS

Hawaii state Rep. Chris Lee, right, and state Sen. Karl Rhoads talk about why they introduced legislation to require presidential candidates to release tax returns in Honolulu. Similar bills were introduced in more than 20 states, and Hawaii and New Jersey recently became the first states in which the bills passed out of legislative chambers. Some legal scholars question the constitutionality of states setting restrictions on presidential candidates, saying that is left to the U.S. Constitution.

Lawmakers in nearly half the states want to add a requirement for presidential candidates: Show us your tax returns.

The issue has dogged President Donald Trump, who became the first presidential candidate in modern times to refuse to make his returns public. It flared anew this week after MSNBC said it had obtained two pages of Trump's 2005 federal return, prompting the administration to release the documents preemptively.

State lawmakers around the country, mostly Democrats, want to ensure transparency in future presidential campaigns so voters can evaluate candidates' sources of income and any possible conflicts of interest. Most of the bills would require presidential contenders to release copies of their returns as a condition for appearing on that state's ballot, although it's unclear whether they could pass constitutional muster.

The aim is to find out about potential conflicts that candidates might have before they take office, said Hawaii Rep. Chris Lee, a Democrat who introduced one of the Hawaii bills.

"With what we've seen so far with this administration, there are clear conflicts with respect to whether or not parts of the president's business empire are directly benefiting from federal contracts to house Secret Service at his own hotels, for example, or pressuring foreign dignitaries or other corporations indirectly to patronize the businesses that the president or his children run," Lee said. "And the real question is, What else don't we know?"

Hawaii was the first state to have votes on the bills before the full Legislature. The Democratically controlled House and Senate recently passed separate but largely similar measures, which would prevent the state's delegates to the Electoral College from voting for candidates who withheld their tax forms.

Lawmakers are likely to send just one of those to Hawaii Gov. David Ige, a Democrat who expressed concerns about whether the proposed changes are constitutional. He said he does not think the state can place limits on the presidential election that are inconsistent with how the election is conducted around the country.

Some legal experts raised similar flags, saying states do not have the power to create additional qualifications for the office of the president. That's up to the U.S. Constitution.

The U.S. Supreme Court has held that states and the federal government cannot add to the qualifications of senators and congressional representatives outlined in the Constitution. Some legal experts said that guidance likely would extend to the office of the president.

"I think a requirement of revealing one's tax returns would be regarded as an additional qualification," said Michael McConnell, a professor at Stanford Law School. "And then there's the tax law problem, because federal law guarantees the confidentiality of tax returns. And I think that law would pre-empt any state law requiring someone to divulge their returns."

But Richard Hasen, a law professor at the University of California, Irvine, said the Constitution has conflicting provisions.

"The question is whether a law that would deprive a presidential candidate of ballot access on the basis of a failure to provide a tax return would be creating an unconstitutional additional qualification, or whether it would be permissible within the state's power to set the rules for presidential elections," Hasen said. "Nobody's tried it before."

Trump has refused to make his tax returns public, breaking a decades-long tradition among presidential candidates. He initially promised to do so but then claimed he was under audit by the Internal Revenue Service and said his attorneys had advised against it. Experts and IRS officials said such audits do not prohibit taxpayers from releasing their own returns.

Trump's full tax returns would contain key information, including his sources of income, how much he earned from his assets and what strategies he used to reduce his tax bill.

Presidential tax return legislation has been introduced in at least 24 states, according to the National Conference of State Legislatures. Most were introduced by Democrats, although bills in Kansas and Minnesota were introduced by Republicans.

New Jersey's Democratic legislature approved a presidential tax return bill on Thursday. Its prospects are uncertain once it lands on the desk of Republican Gov. Chris Christie, a Trump supporter.

New Jersey Republicans criticized the measure as a stunt.

"This is a doozy," GOP Assemblyman Jay Webber said. "This is both transparently political and blatantly unconstitutional."

While bills in Democratic-leaning states such as Maryland and Vermont have had legislative hearings, those introduced in Republican-controlled statehouses such as Arizona, Georgia, Michigan, Minnesota and Pennsylvania are stalling.

"I suspect that these bills will be very similar to the birth certificate legislation introduced after President Obama's election — political statement bills that likely aren't constitutionally sound or likely to be signed into law," said Daniel Diorio, senior policy specialist at the National Conference of State Legislatures. "If one were to become law, I'm sure it would be challenged immediately."

Associated Press writers Bob Christie in Phoenix; Michael Catalini in Trenton, New Jersey; Jonathan J. Cooper in Sacramento, California; Cory Dawson in Montpelier, Vermont; David Eggert in Lansing, Michigan; Kathleen Foody in Atlanta; Marc Levy in Harrisburg, Pennsylvania; Kyle Potter in St. Paul, Minnesota; and Brian Witte in Annapolis, Maryland, contributed to this report.

 **Get the latest news by email** [Sign Up](#)