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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 335
RELATING TO CANDIDATES

February 6, 2025

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to provide comments on Senate Bill No. 335. This bill requires objections made by an officer of a political party to candidate nomination papers to be filed with and determined by the Office of Elections.

Political parties are unique in that while they are private organizations, there are statutory provisions carved out to permit them on the ballot in state elections and for the winner of the Primary Election to move on to the General Election to possibly be elected to state office. With that come legal arguments that the internal rules and conduct of a political party in terms of candidates they permit on a state ballot may be subject to legal scrutiny by the courts. *See Smith v. Allwright*, 321 U.S. 649 (1944) (limiting voters in a party's primary election on the basis of race was deemed state action that was unconstitutional).

The line between what is permissible and what is not permissible in relation to the internal regulation of candidates by a political party is not always clear or may not have already been resolved by the courts. Also, many disputes, in addition to involving questions over the legality of a party's rules, may involve complex questions of fact regarding internal party matters. As such, it would be difficult for the Office of Elections to essentially resolve such an objection as the bill proposes and then to turn around and advocate on behalf of a political party for the disqualification of a candidate in court.

The following are some matters that could be raised or challenged about political parties that seek to disqualify a candidate: (1) some parties regulate that a candidate needs to be a party member for a certain number of days before they can be a candidate; (2) others may require members to first be screened by the

party before they can be a candidate; (3) still other parties might be inconsistent in challenging some non-card carrying members of their party and not others in terms of appearing on the ballot, and (4) some parties might have significant internal party disputes over whether the proper procedures in their rules were followed to eject a candidate from the party.

Ultimately, a political party is in the best position to advocate for itself in court for the possible disqualification of a candidate, who has already certified on their nomination paper that they are “a member of the party.” HRS § 12-3(a)(7).

Thank you for the opportunity to provide comments on Senate Bill No. 335.