

D R A F T

SUMMARY

Requires covered entities to file donor identification list that identifies donors that made donations of \$1,000 or more to covered entity if covered entity makes aggregate contributions, aggregate independent expenditures, aggregate covered transfers or aggregate educational expenditures of specified amount.

Permits covered entities to establish separate campaign account. Limits disclosure requirement to donations of \$100 or more deposited into campaign account if conditions followed.

Regulates covered entity's transfer of moneys from noncampaign accounts to separate campaign account and covered entity's acceptance and use of anonymous donations.

Requires commercial advertisers to maintain books of account specifying contact information and services provided for political advertisements. Requires commercial advertisers to make books publicly available and to provide books to Secretary of State upon request.

Establishes civil penalty for failure to comply with covered entity disclosure requirements and commercial advertiser record keeping requirements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1

2 Relating to campaign finance; creating new provisions; amending ORS
3 260.005, 260.041, 260.044, 260.083, 260.232 and 260.402; and declaring an
4 emergency.

5 Whereas the Legislative Assembly hereby reaffirms the importance of a
6 transparent election process to a functional democracy; and

7 Whereas disclosure to voters of the identities of persons providing, and
8 the sources of funding for, electioneering communications is vitally impor-
9 tant to the integrity of state, local and judicial elections; and

10 Whereas nondisclosure of financial information about election advertising

1 that masquerades as relating only to election issues and not to candidate
2 campaigns fosters corruption or the appearance of corruption; and

3 Whereas these consequences can be substantially avoided by full disclo-
4 sure of the identities and funding sources of those persons paying for such
5 advertising; and

6 Whereas the United States Supreme Court held in *McConnell et al. v.*
7 *Federal Elections Commission*, 540 U.S. 93 (2003), that speakers seeking to
8 influence elections do not possess an inviolable free speech right to engage
9 in electioneering communications regarding elections, including when issue
10 advocacy is the functional equivalent of express advocacy; and

11 Whereas such election campaign communications can be regulated and
12 the source of funding disclosed; and

13 Whereas with increasing sums of campaign spending being directed to
14 messaging and advertising outside of traditional candidate and measure
15 committees by nonprofit and tax-exempt organizations not otherwise required
16 to disclose campaign contributions and spending, the Legislative Assembly
17 declares a statewide interest in requiring this information to be disclosed
18 through ORESTAR, the State of Oregon's campaign reporting system; and

19 Whereas electioneering communications that mention state, local and ju-
20 dicial candidates or measures and that are published, disseminated, distrib-
21 uted, displayed or otherwise made available to the public during an election
22 cycle should require full disclosure so the public may know who is paying
23 for the communications; and

24 Whereas some public interest may be served by maintaining
25 confidentiality of general support to certain types of public service organ-
26 izations, and requiring special provisions only when personal harm might
27 occur to supporters of those organizations if subjected to disclosure of per-
28 sonal identity; and

29 Whereas these aims can be achieved by segregating organizational finan-
30 cial records for political and nonpolitical donation and spending; now,
31 therefore,

1 **Be It Enacted by the People of the State of Oregon:**

2 **SECTION 1. Sections 2 to 4 of this 2015 Act are added to and made**
3 **a part of ORS chapter 260.**

4 **SECTION 2. As used in sections 2 to 4 of this 2015 Act:**

5 **(1)(a) “Advertisement” means a communication that, during the**
6 **period beginning 180 days before the date of the primary election and**
7 **ending on the date of the general election:**

8 **(A) Refers to a candidate, measure or election issue and is pub-**
9 **lished, disseminated, distributed or displayed to the public in print,**
10 **audio, broadcast, satellite, cable or electronic media, including re-**
11 **corded phone messages, or by the use of printed materials, including**
12 **mailers, handbills, signs and billboards; and**

13 **(B) Is reasonably expected to be seen or heard by at least 500 indi-**
14 **viduals.**

15 **(b) “Advertisement” does not include:**

16 **(A) A communication by a membership organization or covered**
17 **entity to its current members, stockholders or executive or adminis-**
18 **trative personnel, unless the membership organization or covered en-**
19 **tity is a campaign committee or political committee;**

20 **(B) A communication appearing in a news story or editorial dis-**
21 **tributed through the use of print, audio, broadcast, satellite, cable or**
22 **electronic media, unless the communication is sponsored or paid for,**
23 **or the medium is controlled or owned, by a candidate, campaign**
24 **committee or political committee;**

25 **(C) A communication that constitutes a candidate debate or forum,**
26 **or that solely promotes a candidate debate or forum and that is made**
27 **by or on behalf of the person sponsoring the debate or forum; or**

28 **(D) Publications provided as nonpartisan voter guides or nonparti-**
29 **san get-out-the-vote materials by organizations that are exempt from**
30 **taxation under section 501(c)(3) of the federal Internal Revenue Code.**

31 **(2) “Anonymous donation” means a donation for which the covered**

1 **entity does not possess all of the identification information for the**
2 **donor that is required under section 3 (4) of this 2015 Act.**

3 **(3) “Commercial advertiser” means a person that publishes, dis-**
4 **seminates, distributes or displays advertisements to the public.**

5 **(4) “Covered entity” means a labor union, for-profit corporation,**
6 **nonprofit corporation, company, incorporated or unincorporated asso-**
7 **ciation, general or limited partnership, society, joint stock company**
8 **or any other organization or institution.**

9 **(5) “Covered transfer” means the gift or transfer of money or any**
10 **other item of value from a covered entity to any person for a political**
11 **purpose if:**

12 **(a) The covered entity designates, requests or suggests that the**
13 **money or other item of value transferred be used by the person to**
14 **make one or more independent expenditures;**

15 **(b) The money or other item of value is transferred in response to**
16 **a request by a person for a donation or payment for the purpose of the**
17 **person’s making one or more independent expenditures;**

18 **(c) The covered entity knew or reasonably should have known that**
19 **the person receiving the transfer of money or other item of value had**
20 **made independent expenditures in an aggregate amount of \$10,000 or**
21 **more during the 12 months immediately before the date of the trans-**
22 **fer; or**

23 **(d) The covered entity knew or reasonably should have known that**
24 **the person receiving the transfer of money or other item of value**
25 **would make independent expenditures in an aggregate amount of**
26 **\$10,000 or more during the 12 months immediately after the date of the**
27 **transfer.**

28 **(6)(a) “Donation” means the gift or transfer of money or any other**
29 **item of value to a covered entity, including any fee, dues or assess-**
30 **ment paid for membership in a covered entity.**

31 **(b) “Donation” does not include money or any other item of value**

1 received by a covered entity in the ordinary course of trade or business
2 conducted by the covered entity, whether for profit or not for profit,
3 or received in the form of investments in the covered entity.

4 (7) "Donor" means a person that makes a donation to a covered
5 entity.

6 (8) "Educational expenditures" means moneys spent by a covered
7 entity on educating electors about election issues, including but not
8 limited to voter guides, voter registration drives, get-out-the-vote
9 materials and election issue lists.

10 **SECTION 3.** (1) A covered entity must file a donor identification list
11 through the electronic filing system adopted by the Secretary of State
12 under ORS 260.057 if:

13 (a) During the previous 12 months the covered entity has made ei-
14 ther aggregate contributions or aggregate independent expenditures
15 that total \$10,000 or more, either singly or in any combination of the
16 following:

17 (A) To a major political party as defined in ORS 254.005;

18 (B) To a minor political party as defined in ORS 254.005;

19 (C) To a petition committee that supports or opposes a measure or
20 the recall of an individual;

21 (D) To a political committee that supports or opposes a candidate,
22 measure or political party; or

23 (E) In support of, or in opposition to, a candidate or measure.

24 (b) During the previous 12 months the covered entity has made:

25 (A) Aggregate covered transfers that total \$10,000 or more; or

26 (B) Aggregate educational expenditures that total \$10,000 or more.

27 (c) During the previous 10 years, the covered entity has made either
28 aggregate contributions or aggregate independent expenditures that
29 total \$100,000 or more, either singly or in any combination of the fol-
30 lowing:

31 (A) To a major political party as defined in ORS 254.005;

1 (B) To a minor political party as defined in ORS 254.005;

2 (C) To a petition committee that supports or opposes a measure or
3 the recall of an individual;

4 (D) To a political committee that supports or opposes a candidate,
5 measure or political party; or

6 (E) In support of, or in opposition to, a candidate or measure.

7 (d) During the previous 10 years the covered entity has made:

8 (A) Aggregate covered transfers that total \$100,000 or more; or

9 (B) Aggregate educational expenditures that total \$100,000 or more.

10 (2)(a) For the purposes of filing a donor identification list under
11 subsection (1) of this section, the aggregate contributions, aggregate
12 independent expenditures, aggregate covered transfers and aggregate
13 educational expenditures made by a covered entity are reset to \$0 at
14 the time of each filing.

15 (b) A covered entity that files a donor identification list under
16 subsection (1) of this section must file a subsequent donor identifica-
17 tion list each time the covered entity reaches a contribution, inde-
18 pendent expenditure, covered transfer or educational expenditure
19 threshold set forth in subsection (1) of this section.

20 (3)(a) An initial donor identification list filed under subsection (1)(a)
21 or (b) of this section must include the information required under
22 subsection (4) of this section for the period ending on the date that the
23 obligation to file a list under subsection (1) of this section is created
24 and beginning 12 calendar months before the covered entity was re-
25 quired to file a list under subsection (1) of this section.

26 (b) An initial donor identification list filed under subsection (1)(c)
27 or (d) of this section must include the information required under
28 subsection (4) of this section for the period ending on the date that the
29 obligation to file a list under subsection (1) of this section is created
30 and beginning 10 years before the covered entity was required to file
31 a list under subsection (1) of this section.

1 (c) A covered entity that files a subsequent donor identification list
2 under subsection (2) of this section must include the information re-
3 quired under subsection (4) of this section for the period ending on the
4 date that the obligation to file a subsequent list under subsection (2)
5 of this section is created and beginning:

6 (A) For subsequent donor identification lists required because the
7 covered entity has reached the contribution, independent expenditure,
8 covered transfer or educational expenditure thresholds set forth in
9 subsection (1)(a) or (b) of this section, 12 calendar months previously
10 or the date on which the obligation to file the most recent previously
11 filed list was created, whichever is more recent; or

12 (B) For subsequent donor identification lists required because the
13 covered entity has reached the contribution, independent expenditure,
14 covered transfer or educational expenditure thresholds set forth in
15 subsection (1)(c) or (d) of this section, 10 years previously or the date
16 on which the obligation to file the most recent previously filed list was
17 created, whichever is more recent.

18 (4) Each donor identification list must include:

19 (a) The name of the donor;

20 (b) The residential or business address of the donor;

21 (c) The occupation or business of the donor;

22 (d) The name of the donor's employer or business, if any;

23 (e) The total amount of donations the donor contributed to the
24 covered entity during the applicable period specified in subsection (3)
25 of this section; and

26 (f) Each date on which the donor made a donation to the covered
27 entity during the applicable period specified in subsection (3) of this
28 section.

29 (5) A covered entity may establish a separate campaign account for
30 the covered entity to use to make contributions, independent expend-
31 itures, covered transfers or educational expenditures. If a covered en-

1 **tity creates a separate campaign account under this subsection:**

2 **(a) All moneys raised by the covered entity for the purpose of en-**
3 **gaging in political activity must be deposited into the account; and**

4 **(b) All contributions, independent expenditures, covered transfers**
5 **and educational expenditures made by a covered entity must be made**
6 **from the account.**

7 **(6)(a) If a covered entity establishes a separate campaign account**
8 **under subsection (5) of this section and transfers less than \$10,000 in**
9 **any single year, and less than \$100,000 in the preceding 10-year period,**
10 **from a noncampaign account to the separate campaign account, the**
11 **donor identification lists that the covered entity must file are required**
12 **to provide only information for donors that donate \$100 or more whose**
13 **donations are placed in the separate campaign account. The donor**
14 **identification lists need not include information for other donors.**

15 **(b)(A) Except as provided subparagraph (B) of this paragraph, if a**
16 **covered entity establishes a separate campaign account under sub-**
17 **section (5) of this section and transfers either \$10,000 or more in any**
18 **single year, or \$100,000 or more in the previous 10-year period, from a**
19 **noncampaign account to the separate campaign account, the donor**
20 **identification lists that the covered entity files must include:**

21 **(i) The information required under paragraph (a) of this subsection;**
22 **and**

23 **(ii) Donor information for every donor that donated to the covered**
24 **entity either \$1,000 or more in the previous 12 months or \$10,000 or**
25 **more in the previous 10 years.**

26 **(B) If the covered entity exceeds a transfer threshold set forth in**
27 **subparagraph (A) of this paragraph by transferring an amount be-**
28 **tween \$10,000 and \$50,000 during the 28 days immediately preceding a**
29 **primary or general election, the donor identification lists that the**
30 **covered entity files must include:**

31 **(i) The information required under paragraph (a) of this subsection;**

1 and

2 (ii) Donor information for every donor that donated to the covered
3 entity either \$2,500 or more in the previous 12 months or \$10,000 or
4 more in the previous 10 years.

5 (c)(A) Except as provided in subparagraph (B) of this paragraph, if
6 a covered entity does not establish a separate campaign account under
7 subsection (5) of this section, the donor identification lists filed by the
8 covered entity must provide donor information for every donor that
9 donated to the covered entity either \$1,000 or more in the previous 12
10 months or \$10,000 or more in the previous 10 years.

11 (B) If the covered entity that does not establish a separate cam-
12 paign account under subsection (5) of this section is required to file a
13 donor identification list because during the 28 days immediately pre-
14 ceding a primary or general election the covered entity makes aggre-
15 gate contributions, aggregate independent expenditures, aggregate
16 covered transfers or aggregate educational expenditures of between
17 \$10,000 and \$50,000, the list that the covered entity files must include
18 donor information for every donor that donated to the covered entity
19 either \$2,500 or more in the previous 12 months or \$10,000 or more in
20 the previous 10 years.

21 (7)(a) If a covered entity establishes a separate campaign account
22 under subsection (5) of this section, the covered entity may not:

23 (A) Place an anonymous donation of \$100 or more into the separate
24 campaign account; or

25 (B) Transfer \$10,000 or more in any single year, or \$100,000 or more
26 in the previous 10-year period, from an account that contains one or
27 more anonymous contributions of \$1,000 or more to a separate cam-
28 paign account established under subsection (5) of this section.

29 (b) If a covered entity does not establish a separate campaign ac-
30 count under subsection (5) of this section, the covered entity may not
31 accept an anonymous donation of \$1,000 or more unless the covered

1 **entity places and retains the anonymous donation in an account that**
2 **contains no moneys that are used for the purpose of making:**

3 **(A) An educational expenditure or covered transfer; or**

4 **(B) A contribution or independent expenditure to or on behalf of a**
5 **recipient listed in subsection (1) of this section.**

6 **(8) Each donor identification list filed under this section must be**
7 **signed and certified as true by an authorized representative of the**
8 **covered entity. Signatures must be supplied in the manner specified**
9 **by the Secretary of State by rule.**

10 **(9)(a) A covered entity that is required to file a donor identification**
11 **list as a result of making contributions or covered transfers shall file**
12 **the list according to the time frame for filing a statement of contri-**
13 **butions under ORS 260.057 and 260.076, except that the time to file**
14 **starts on the day that the covered entity makes a contribution that**
15 **meets or exceeds a threshold for contributions or covered transfers set**
16 **forth in subsection (1) of this section.**

17 **(b) A covered entity that is required to file a donor identification**
18 **list as a result of making independent expenditures or educational**
19 **expenditures shall file the list according to the time frame for filing**
20 **a statement of independent expenditures under ORS 260.044, except**
21 **that the time to file starts on the day that the covered entity makes**
22 **an independent expenditure or educational expenditure that meets or**
23 **exceeds the threshold for independent expenditures or educational ex-**
24 **penditures set forth in subsection (1) of this section.**

25 **(10) The Secretary of State may enact rules necessary to implement**
26 **this section.**

27 **SECTION 4. (1) Each commercial advertiser shall maintain books**
28 **of account that specify:**

29 **(a) The name and address of each person that supplied an adver-**
30 **tisement to the commercial advertiser;**

31 **(b) The specific services the commercial advertiser provided to the**

1 **person or persons that supplied the advertisement; and**

2 **(c) The total cost the commercial advertiser charged to the person**
3 **or persons that supplied the advertisement.**

4 **(2) Commercial advertisers shall make the books of account re-**
5 **quired to be maintained under this section available for public in-**
6 **spection during normal business hours for a period of no less than**
7 **three years from the date the advertisement is last published, dis-**
8 **seminated, distributed or displayed by the commercial advertiser.**

9 **(3) Upon request, commercial advertisers shall provide the Secre-**
10 **tary of State with copies of the books of account required to be**
11 **maintained under this section.**

12 **SECTION 5.** ORS 260.005 is amended to read:

13 260.005. As used in this chapter:

14 (1)(a) "Candidate" means:

15 (A) An individual whose name is printed on a ballot, for whom a decla-
16 ration of candidacy, nominating petition or certificate of nomination to
17 public office has been filed or whose name is expected to be or has been
18 presented, with the individual's consent, for nomination or election to public
19 office;

20 (B) An individual who has solicited or received and accepted a contribu-
21 tion, made an expenditure, or given consent to an individual, organization,
22 political party or political committee to solicit or receive and accept a con-
23 tribution or make an expenditure on the individual's behalf to secure nomi-
24 nation or election to any public office at any time, whether or not the office
25 for which the individual will seek nomination or election is known when the
26 solicitation is made, the contribution is received and retained or the ex-
27 penditure is made, and whether or not the name of the individual is printed
28 on a ballot; or

29 (C) A public office holder against whom a recall petition has been com-
30 pleted and filed.

31 (b) For purposes of this section and ORS 260.035 to 260.156, "candidate"

1 does not include a candidate for the office of precinct committeeperson.

2 (2) "Committee director" means any person who directly and substantially
3 participates in decision-making on behalf of a political committee concerning
4 the solicitation or expenditure of funds and the support of or opposition to
5 candidates or measures. The officers of a political party shall be considered
6 the directors of any political party committee of that party, unless otherwise
7 provided in the party's bylaws.

8 (3) Except as provided in ORS 260.007, "contribute" or "contribution" in-
9 cludes:

10 (a) The payment, loan, gift, forgiving of indebtedness, or furnishing
11 without equivalent compensation or consideration, of money, services other
12 than personal services for which no compensation is asked or given, supplies,
13 equipment or any other thing of value:

14 (A) For the purpose of influencing an election for public office or an
15 election on a measure, or of reducing the debt of a candidate for nomination
16 or election to public office or the debt of a political committee; or

17 (B) To or on behalf of a candidate, political committee or measure; and

18 (b) The excess value of a contribution made for compensation or consid-
19 eration of less than equivalent value.

20 (4) "Controlled committee" means a political committee that, in con-
21 nection with the making of contributions or expenditures:

22 (a) Is controlled directly or indirectly by a candidate or a controlled
23 committee; or

24 (b) Acts jointly with a candidate or controlled committee.

25 (5) "Controlled directly or indirectly by a candidate" means:

26 (a) The candidate, the candidate's agent, a member of the candidate's im-
27 mediate family or any other political committee that the candidate controls
28 has a significant influence on the actions or decisions of the political com-
29 mittee; or

30 (b) The candidate's principal campaign committee and the political com-
31 mittee both have the candidate or a member of the candidate's immediate

1 family as a treasurer or director.

2 (6) "County clerk" means the county clerk or the county official in charge
3 of elections.

4 (7)(a) "Electioneering communication" means a paid communi-
5 cation that is publicly distributed within 60 days before a primary or
6 general election and that:

7 (A) Refers to one or more clearly identified candidates in the
8 election;

9 (B) Depicts the name, image, likeness or voice of one or more
10 clearly identified candidates in the election; or

11 (C) Refers to a political party, measure or other question submitted
12 to the electors in the election.

13 (b) "Electioneering communication" does not mean:

14 (A) A communication appearing in a news story, commentary, blog
15 or editorial distributed through the facilities of any broadcasting sta-
16 tion, newspaper, magazine, website or other periodical publication of
17 general circulation, unless the facilities are owned or controlled by a
18 candidate, political committee or petition committee;

19 (B) A communication by a membership organization or corporation
20 to its current members, stockholders or employees;

21 (C) A commercial communication that depicts a candidate's name,
22 image, likeness or voice only in the candidate's capacity as owner,
23 operator or employee of a business that existed prior to the candidate's
24 declaration of candidacy; or

25 (D) A communication that constitutes a candidate debate or forum
26 or that solely promotes a candidate debate or forum and that is made
27 by or on behalf of the person sponsoring the debate or forum.

28 (c) As used in this subsection, "publicly distributed" means a com-
29 munication that is:

30 (A) Aired by radio, television, cable, satellite, Internet, newspaper,
31 periodical, billboard, mail or any other distribution of printed materi-

1 **als; and**

2 **(B) Capable of being received by 100 or more recipients.**

3 [(7)] **(8)** “Elector” means an individual qualified to vote under Article II,
4 section 2, of the Oregon Constitution.

5 [(8)] **(9)** Except as provided in ORS 260.007, “expend” or “expenditure”
6 includes the payment or furnishing of money or anything of value or the
7 incurring or repayment of indebtedness or obligation by or on behalf of a
8 candidate, political committee or person in consideration for any services,
9 supplies, equipment or other thing of value performed or furnished for any
10 reason, including support of or opposition to a candidate, political committee
11 or measure, or for reducing the debt of a candidate for nomination or
12 election to public office. “Expenditure” also includes contributions made by
13 a candidate or political committee to or on behalf of any other candidate or
14 political committee.

15 [(9)] **(10)** “Filing officer” means:

16 (a) The Secretary of State:

17 (A) Regarding a candidate for public office;

18 (B) Regarding a statement required to be filed under ORS 260.118;

19 (C) Regarding any measure; or

20 (D) Regarding any political committee.

21 (b) In the case of an irrigation district formed under ORS chapter 545,
22 “filing officer” means:

23 (A) The county clerk, regarding any candidate for office or any measure
24 at an irrigation district formation election where the proposed district is
25 situated wholly in one county;

26 (B) The county clerk of the county in which the office of the secretary
27 of the proposed irrigation district will be located, regarding any candidate
28 for office or any measure at an irrigation district formation election where
29 the proposed district is situated in more than one county; or

30 (C) The secretary of the irrigation district for any election other than an
31 irrigation district formation election.

1 [(10)] (11) “Independent expenditure” means **an electioneering commu-**
2 **nication or** an expenditure by a person for a communication in support of
3 or in opposition to a clearly identified candidate or measure that is not made
4 with the cooperation or with the prior consent of, or in consultation with,
5 or at the request or suggestion of, a candidate or any agent or authorized
6 committee of the candidate, or any political committee or agent of a political
7 committee supporting or opposing a measure. For purposes of this subsection:

8 (a) “Agent” means any person who has:

9 (A) Actual oral or written authority, either express or implied, to make
10 or to authorize the making of expenditures on behalf of a candidate or on
11 behalf of a political committee supporting or opposing a measure; or

12 (B) Been placed in a position within the campaign organization where it
13 would reasonably appear that in the ordinary course of campaign-related
14 activities the person may authorize expenditures.

15 (b)(A) “Clearly identified” means, with respect to candidates:

16 (i) The name of the candidate involved appears;

17 (ii) A photograph or drawing of the candidate appears; or

18 (iii) The identity of the candidate is apparent by unambiguous reference.

19 (B) “Clearly identified” means, with respect to measures:

20 (i) The ballot number of the measure appears;

21 (ii) A description of the measure’s subject or effect appears; or

22 (iii) The identity of the measure is apparent by unambiguous reference.

23 (c) “Communication in support of or in opposition to a clearly identified
24 candidate or measure” means:

25 (A) The communication, taken in its context, clearly and unambiguously
26 urges the election or defeat of a clearly identified candidate for nomination
27 or election to public office, or the passage or defeat of a clearly identified
28 measure;

29 (B) The communication, as a whole, seeks action rather than simply con-
30 veying information; and

31 (C) It is clear what action the communication advocates.

1 (d) “Made with the cooperation or with the prior consent of, or in con-
2 sultation with, or at the request or suggestion of, a candidate or any agent
3 or authorized committee of the candidate, or any political committee or
4 agent of a political committee supporting or opposing a measure”:

5 (A) Means any arrangement, coordination or direction by the candidate
6 or the candidate’s agent, or by any political committee or agent of a political
7 committee supporting or opposing a measure, prior to the publication, dis-
8 tribution, display or broadcast of the communication. An expenditure shall
9 be presumed to be so made when it is:

10 (i) Based on information about the plans, projects or needs of the candi-
11 date, or of the political committee supporting or opposing a measure, and
12 provided to the expending person by the candidate or by the candidate’s
13 agent, or by any political committee or agent of a political committee sup-
14 porting or opposing a measure, with a view toward having an expenditure
15 made; or

16 (ii) Made by or through any person who is or has been authorized to raise
17 or expend funds, who is or has been an officer of a political committee au-
18 thorized by the candidate or by a political committee or agent of a political
19 committee supporting or opposing a measure, or who is or has been receiving
20 any form of compensation or reimbursement from the candidate, the
21 candidate’s principal campaign committee or agent or from any political
22 committee or agent of a political committee supporting or opposing a meas-
23 ure.

24 (B) Does not mean providing to the expending person upon request a copy
25 of this chapter or any rules adopted by the Secretary of State relating to
26 independent expenditures.

27 [(11)] (12) “Initiative petition” means a petition to initiate a measure for
28 which a prospective petition has been filed but that is not yet a measure.

29 [(12)] (13) “Judge” means judge of the Supreme Court, Court of Appeals,
30 circuit court or the Oregon Tax Court.

31 [(13)] (14) “Mass mailing” means more than 200 substantially similar

1 pieces of mail, but does not include a form letter or other mail that is sent
2 in response to an unsolicited request, letter or other inquiry.

3 [(14)] (15) “Measure” includes any of the following submitted to the peo-
4 ple for their approval or rejection at an election:

5 (a) A proposed law.

6 (b) An Act or part of an Act of the Legislative Assembly.

7 (c) A revision of or amendment to the Oregon Constitution.

8 (d) Local, special or municipal legislation.

9 (e) A proposition or question.

10 [(15)] (16) “Occupation” means:

11 (a) The nature of an individual’s principal business; and

12 (b) If the individual is employed by another person, the business name and
13 address, by city and state, of the employer.

14 [(16)] (17) “Person” means an individual, corporation, limited liability
15 company, labor organization, association, firm, partnership, joint stock com-
16 pany, club, organization, **covered entity as defined in section 2 of this**
17 **2015 Act** or other combination of individuals having collective capacity.

18 [(17)] (18) “Petition committee” means an initiative, referendum or recall
19 petition committee organized under ORS 260.118.

20 [(18)] (19) “Political committee” means a combination of two or more in-
21 dividuals, or a person other than an individual, that has:

22 (a) Received a contribution for the purpose of supporting or opposing a
23 candidate, measure or political party; or

24 (b) Made an expenditure for the purpose of supporting or opposing a
25 candidate, measure or political party. For purposes of this paragraph, an
26 expenditure does not include:

27 (A) A contribution to a candidate or political committee that is required
28 to report the contribution on a statement filed under ORS 260.057 or 260.076
29 or a certificate filed under ORS 260.112; or

30 (B) An independent expenditure for which a statement is required to be
31 filed by a person under ORS 260.044.

1 [(19)] (20) “Public office” means any national, state, county, district, city
2 office or position, except a political party office, that is filled by the electors.

3 [(20)] (21) “Recall petition” means a petition to recall a public officer for
4 which a prospective petition has been filed but that is not yet a measure.

5 [(21)] (22) “Referendum petition” means a petition to refer a measure for
6 which a prospective petition has been filed but that is not yet a measure.

7 [(22)] (23) “Regular district election” means the regular district election
8 described in ORS 255.335.

9 [(23)] (24) “State office” means the office of Governor, Secretary of State,
10 State Treasurer, Attorney General, Commissioner of the Bureau of Labor and
11 Industries, state Senator, state Representative, judge or district attorney.

12 **SECTION 6.** ORS 260.402 is amended to read:

13 260.402. (1) A person may not **directly or indirectly reimburse a person**
14 **for making a contribution or donation, or** make a contribution **or do-**
15 **nation** in any name other than that of the person [*who*] **that** in truth pro-
16 vides the contribution **or donation**, to:

17 (a) Any other person, relating to a nomination or election of any candi-
18 date or the support of or opposition to any measure;

19 (b) Any political committee;

20 (c) **Any covered entity;** or

21 [(c)] (d) A petition committee required to file a statement under ORS
22 260.118.

23 (2) Except as provided in subsection (3) of this section, a person, political
24 committee, **covered entity** or petition committee may not knowingly receive
25 a contribution prohibited under subsection (1) of this section or enter or
26 cause the contribution to be entered in accounts or records in another name
27 than that of the person [*by whom it was*] **that** actually provided **the con-**
28 **tribution.**

29 (3) If a person receives a contribution from a political committee, the
30 person may enter the contribution into accounts or records as received from
31 the political committee.

1 **(4) As used in this section, “covered entity” and “donation” have**
2 **the meanings given those terms in section 2 of this 2015 Act.**

3 **SECTION 7.** ORS 260.232 is amended to read:

4 260.232. (1) The Secretary of State may impose a civil penalty as provided
5 in this section, in addition to any other penalty that may be imposed, for:

6 (a) Failure to file a statement, **list** or certificate required to be filed un-
7 der ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118 **or sec-**
8 **tion 3 of this 2015 Act.**

9 (b) Failure to include in a statement **or list** filed under ORS 260.044,
10 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118 **or section 3 of this 2015**
11 **Act** the information required under ORS 260.044, 260.057, 260.076, 260.083 or
12 260.118 **or section 3 of this 2015 Act.**

13 (c) **Failure to maintain and make publicly available books of ac-**
14 **count in the manner required under section 4 of this 2015 Act.**

15 (2)(a) If a person required to file has not filed a statement, **list** or certif-
16 icate complying with applicable provisions of ORS 260.044, 260.057, 260.076,
17 260.078, 260.083, 260.085, 260.112 or 260.118 **or section 3 of this 2015 Act**
18 within the time specified in ORS 260.044, 260.057, 260.076, 260.078 or 260.118
19 **or section 3 of this 2015 Act, or if a person required to maintain and**
20 **make publicly available books of account under section 4 of this 2015**
21 **Act has failed to do so,** the Secretary of State by first class mail shall
22 notify the person that a penalty may be imposed and that the person has 20
23 days from the service date on the notice to request a hearing before the
24 Secretary of State.

25 (b) If the person required to file **or maintain books of account** is a
26 candidate or the principal campaign committee of a candidate, the Secretary
27 of State shall send the notice described in paragraph (a) of this subsection
28 by first class mail to the candidate. The notice shall be used for purposes
29 of determining the deadline for requesting a hearing under subsection (3) of
30 this section.

31 (3) A hearing on whether to impose a civil penalty and to consider cir-

1 cumstances in mitigation shall be held by the Secretary of State:

2 (a) Upon request of the person against [*whom*] **which** the penalty may be
3 assessed, if the request is made not later than the 20th day after the person
4 received the notice sent under subsection (2) of this section;

5 (b) Upon request of the filing officer with whom a statement or certificate
6 was required to be filed but was not filed; or

7 (c) Upon the Secretary of State's own motion.

8 (4) A hearing under subsection (3) of this section shall be held not later
9 than 45 days after the deadline for the person against [*whom*] **which** the
10 penalty may be assessed to request a hearing. However, if requested by the
11 person against [*whom*] **which** the penalty may be assessed, a hearing under
12 subsection (3) of this section shall be held not later than 60 days after the
13 deadline for the person against [*whom*] **which** the penalty may be assessed
14 to request a hearing.

15 (5) The Secretary of State shall issue an order not later than 90 days after
16 a hearing or after the deadline for requesting a hearing if no hearing is held.

17 (6) The person against [*whom*] **which** a penalty may be assessed need not
18 appear in person at a hearing held under this section, but instead may sub-
19 mit written testimony and other evidence, subject to the penalty for false
20 swearing, to the Secretary of State for entry in the hearing record. The tes-
21 timony and other evidence must be received by the secretary not later than
22 three business days before the day of the hearing and may be submitted
23 electronically.

24 (7) A civil penalty imposed under this section may not be more than the
25 following:

26 (a) For failure to file a statement or certificate required to be filed under
27 ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118, 10 percent
28 of the total amount of the contribution or expenditure required to be in-
29 cluded in the statement or certificate; [*or*]

30 (b) For each failure to include in a statement filed under ORS 260.044,
31 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118 the information required

1 under ORS 260.044, 260.057, 260.076, 260.083 or 260.118, 10 percent of the total
2 amount of the contribution or expenditure required to be included in the
3 statement[.];

4 **(c) For each failure to file a list required to be filed under section**
5 **3 of this 2015 Act, or to maintain and make publicly available books**
6 **of account under section 4 of this 2015 Act, three times the amount**
7 **of each donation required to be included in the list or three times the**
8 **amount of each payment made to the commercial advertiser that is**
9 **required to be included in the books of account, whichever is applica-**
10 **ble; or**

11 **(d) For each failure to include the information required in a list**
12 **under section 3 of this 2015 Act, or in the books of account under**
13 **section 4 of this 2015 Act, three times the amount of each donation**
14 **required to be included in the list or three times the amount of each**
15 **payment made to the commercial advertiser that is required to be in-**
16 **cluded in the books of account, whichever is applicable.**

17 (8) The Secretary of State, upon a showing of mitigating circumstances,
18 may reduce the amount of the penalty described in subsection (7) of this
19 section.

20 (9) Except as otherwise provided by this section, civil penalties under this
21 section shall be imposed as provided in ORS 183.745.

22 **(10) As used in this section, “donation” and “commercial**
23 **advertiser” have the meanings given those terms in section 2 of this**
24 **2015 Act.**

25 **SECTION 8.** ORS 260.041 is amended to read:

26 260.041. (1) Notwithstanding ORS 260.005 [(18)] **(19)** and except as pro-
27 vided in ORS 260.043, a candidate shall designate a political committee as
28 the candidate’s principal campaign committee. A candidate may designate
29 only one political committee as the candidate’s principal campaign commit-
30 tee.

31 (2) A political committee may not be designated as the principal campaign

1 committee of more than one candidate.

2 **SECTION 9.** ORS 260.044 is amended to read:

3 260.044. (1) If a person makes independent expenditures in a total amount
4 of more than \$750 in a calendar year, the person shall use the electronic
5 filing system adopted under ORS 260.057 to file with the Secretary of State
6 a statement of independent expenditures not later than seven calendar days
7 after the total amount of independent expenditures exceeds \$750 in a calen-
8 dar year.

9 (2) A person who files a statement of independent expenditures under
10 subsection (1) of this section shall use the electronic filing system adopted
11 under ORS 260.057 to file with the secretary additional statements of inde-
12 pendent expenditures made by the person, as described in ORS 260.083.

13 (3) Except as provided in subsections (4) and (5) of this section, a person
14 shall file a statement described in subsection (2) of this section not later
15 than 30 calendar days after an independent expenditure is made.

16 (4)(a) A person shall file a statement described in subsection (2) of this
17 section not later than seven calendar days after an independent expenditure
18 is made. This paragraph applies to independent expenditures made:

19 (A) During the period beginning on the 42nd calendar day before the date
20 of any primary election and ending on the date of the primary election; and

21 (B) During the period beginning on the 42nd calendar day before the date
22 of any general election and ending on the date of the general election.

23 (b) If the person makes an independent expenditure prior to the 42nd
24 calendar day before the date of the primary or general election and the per-
25 son has not filed a statement under subsection (3) of this section by the 43rd
26 calendar day before the date of the primary or general election, the person
27 shall file a statement described in subsection (2) of this section not later
28 than the 35th calendar day before the date of the primary or general election.

29 (5) For any special election, the secretary by rule may establish a period
30 during which a person must file a statement described in subsection (2) of
31 this section. The period may not extend beyond seven calendar days after an

1 independent expenditure is made.

2 (6) Notwithstanding ORS 260.005 [(18)] (19), a person who solicits and
3 receives a contribution or contributions is a political committee and shall
4 file a statement of organization under ORS 260.042 and the statements re-
5 quired by ORS 260.057, 260.076 or 260.078.

6 (7) For purposes of this section:

7 (a) An independent expenditure does not include a contribution to a can-
8 didate or political committee that is required to report the contribution on
9 a statement filed under ORS 260.057, 260.076 or 260.078 or a certificate filed
10 under ORS 260.112;

11 (b) An independent expenditure does not include a contribution to a can-
12 didate who is not required to file a statement of organization under ORS
13 260.043; and

14 (c) A person is not a political committee under subsection (6) of this
15 section if all contributions received by the person are:

16 (A) Designated to an identified candidate or political committee;

17 (B) Delivered by the person to the designated candidate or political com-
18 mittee not later than seven business days after the contribution is received;
19 and

20 (C) Required to be reported as contributions by a candidate or political
21 committee on a statement filed under ORS 260.057, 260.076 or 260.078 or a
22 certificate filed under ORS 260.112.

23 **SECTION 10.** ORS 260.083 is amended to read:

24 260.083. (1)(a) For a contribution, except as provided in ORS 260.085, a
25 statement filed under ORS 260.044, 260.057, 260.076, 260.078 or 260.118 shall
26 list:

27 (A) The name, occupation and address of each person, and the name and
28 address of each political committee or petition committee, that contributed
29 an aggregate amount of more than \$100 in a calendar year on behalf of a
30 candidate or to a political committee or petition committee and the total
31 amount contributed by that person or committee; and

1 (B) The total amount of other contributions as a single item, but shall
2 specify how those contributions were obtained.

3 (b) For an expenditure, including an independent expenditure, a statement
4 filed under ORS 260.044, 260.057, 260.076, 260.078 or 260.118 shall list:

5 (A) The amount and purpose of each expenditure made in an aggregate
6 amount of more than \$100 to a payee, the name or, if applicable, the business
7 name of the payee of the expenditure, and the city, or county if the payee
8 is not located in a city, and state in which the payee is located; and

9 (B) The total amount of other expenditures as a single item.

10 (c) For each loan, whether repaid or not, made by or to a candidate, pol-
11 itical committee or petition committee, a statement filed under ORS 260.044,
12 260.057, 260.076, 260.078 or 260.118 shall list:

13 (A) The name and address of each person shown as a cosigner or
14 guarantor on a loan and the amount of the obligation undertaken by each
15 cosigner or guarantor;

16 (B) The name of the lender holding the loan; and

17 (C) The terms of the loan, including the interest rate and repayment
18 schedule.

19 (2) An expenditure shall be reported as an account payable only if the
20 expenditure is not paid within the time specified in ORS 260.057, 260.076 or
21 260.118.

22 (3) Anything of value paid for or contributed by any person shall be listed
23 as both an in-kind contribution and an expenditure by the candidate or
24 committee for whose benefit the payment or contribution was made.

25 (4) If a candidate, political committee or petition committee under ORS
26 260.057 or 260.118 makes an expenditure that must be reported as an in-kind
27 contribution and an expenditure as provided in subsection (3) of this section,
28 the candidate, political committee or petition committee making the original
29 expenditure shall, in any statement filed under ORS 260.057, 260.078 or
30 260.118, identify the expenditure as an in-kind contribution and identify the
31 candidate, political committee or petition committee for whose benefit the

1 expenditure was made.

2 (5) If a political committee makes an expenditure that qualifies as an in-
3 dependent expenditure under ORS 260.005 [(10)] (11), the listing of the ex-
4 penditure under this section shall identify any candidates or measures that
5 are the subject of the independent expenditure and state whether the inde-
6 pendent expenditure was used to advocate the election, passage or defeat of
7 the candidates or measures.

8 (6) As used in this section:

9 (a) "Address" has the meaning given that term in rules adopted by the
10 Secretary of State.

11 (b) "Contribution" and "expenditure" include a contribution or expendi-
12 ture to or on behalf of an initiative, referendum or recall petition.

13 **SECTION 11. Sections 2 to 4 of this 2015 Act and the amendments**
14 **to ORS 260.005, 260.041, 260.044, 260.083, 260.232 and 260.402 by sections**
15 **5 to 10 of this 2015 Act become operative on January 1, 2016.**

16 **SECTION 12. The Secretary of State may take any action before the**
17 **operative date specified in section 11 of this 2015 Act that is necessary**
18 **for the secretary to exercise, on and after the operative date specified**
19 **in section 11 of this 2015 Act, all of the duties, functions and powers**
20 **conferred on the secretary by sections 2 to 4 of this 2015 Act and the**
21 **amendments to ORS 260.005, 260.041, 260.044, 260.083, 260.232 and 260.402**
22 **by sections 5 to 10 of this 2015 Act.**

23 **SECTION 13. This 2015 Act being necessary for the immediate**
24 **preservation of the public peace, health and safety, an emergency is**
25 **declared to exist, and this 2015 Act takes effect on its passage.**

26