

House Bill 3552

Sponsored by COMMITTEE ON RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 260.005, 260.041, 260.044,
3 260.083, 260.232 and 260.402; and declaring an emergency.

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

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

9 Whereas nondisclosure of financial information about election advertising that masquerades as
10 relating only to election issues and not to candidate campaigns fosters corruption or the appearance
11 of corruption; and

12 Whereas these consequences can be substantially avoided by full disclosure of the identities and
13 funding sources of those persons paying for such advertising; and

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

18 Whereas such election campaign communications can be regulated and the source of funding
19 disclosed; and

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 Whereas electioneering communications that mention state, local and judicial candidates or
2 measures and that are published, disseminated, distributed, displayed or otherwise made available
3 to the public during an election cycle should require full disclosure so the public may know who is
4 paying for the communications; and

5 Whereas some public interest may be served by maintaining confidentiality of general support
6 to certain types of public service organizations, and requiring special provisions only when personal
7 harm might occur to supporters of those organizations if subjected to disclosure of personal identity;
8 and

9 Whereas these aims can be achieved by segregating organizational financial records for political
10 and nonpolitical donation and spending; now, therefore,

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

12 **SECTION 1. Sections 2 to 4 of this 2015 Act are added to and made a part of ORS chapter**
13 **260.**

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

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

17 **(A) Refers to a candidate, measure or election issue and is published, disseminated, dis-**
18 **tributed or displayed to the public in print, audio, broadcast, satellite, cable or electronic**
19 **media, including recorded phone messages, or by the use of printed materials, including**
20 **mailers, handbills, signs and billboards; and**

21 **(B) Is reasonably expected to be seen or heard by at least 500 individuals.**

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

23 **(A) A communication by a membership organization or covered entity to its current**
24 **members, stockholders or executive or administrative personnel, unless the membership or-**
25 **ganization or covered entity is a campaign committee or political committee;**

26 **(B) A communication appearing in a news story or editorial distributed through the use**
27 **of print, audio, broadcast, satellite, cable or electronic media, unless the communication is**
28 **sponsored or paid for, or the medium is controlled or owned, by a candidate, campaign**
29 **committee or political committee;**

30 **(C) A communication that constitutes a candidate debate or forum, or that solely pro-**
31 **motes a candidate debate or forum and that is made by or on behalf of the person sponsoring**
32 **the debate or forum; or**

33 **(D) Publications provided as nonpartisan voter guides or nonpartisan get-out-the-vote**
34 **materials by organizations that are exempt from taxation under section 501(c)(3) of the fed-**
35 **eral Internal Revenue Code.**

36 **(2) “Anonymous donation” means a donation for which the covered entity does not pos-**
37 **sess all of the identification information for the donor that is required under section 3 (4)**
38 **of this 2015 Act.**

39 **(3) “Commercial advertiser” means a person that publishes, disseminates, distributes or**
40 **displays advertisements to the public.**

41 **(4) “Covered entity” means a labor union, for-profit corporation, nonprofit corporation,**
42 **company, incorporated or unincorporated association, general or limited partnership, society,**
43 **joint stock company or any other organization or institution.**

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

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

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

6 (c) The covered entity knew or reasonably should have known that the person receiving
 7 the transfer of money or other item of value had made independent expenditures in an ag-
 8 gregate amount of \$10,000 or more during the 12 months immediately before the date of the
 9 transfer; or

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

14 (6)(a) “Donation” means the gift or transfer of money or any other item of value to a
 15 covered entity, including any fee, dues or assessment paid for membership in a covered en-
 16 tity.

17 (b) “Donation” does not include money or any other item of value received by a covered
 18 entity in the ordinary course of trade or business conducted by the covered entity, whether
 19 for profit or not for profit, or received in the form of investments in the covered entity.

20 (7) “Donor” means a person that makes a donation to a covered entity.

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

24 **SECTION 3.** (1) A covered entity must file a donor identification list through the elec-
 25 tronic filing system adopted by the Secretary of State under ORS 260.057 if:

26 (a) During the previous 12 months the covered entity has made either aggregate contri-
 27 butions or aggregate independent expenditures that total \$10,000 or more, either singly or in
 28 any combination of the following:

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

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

31 (C) To a petition committee that supports or opposes a measure or the recall of an indi-
 32 vidual;

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

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

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

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

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

39 (c) During the previous 10 years, the covered entity has made either aggregate contri-
 40 butions or aggregate independent expenditures that total \$100,000 or more, either singly or
 41 in any combination of the following:

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

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

44 (C) To a petition committee that supports or opposes a measure or the recall of an indi-
 45 vidual;

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

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

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

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

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

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

11 (b) A covered entity that files a donor identification list under subsection (1) of this
12 section must file a subsequent donor identification list each time the covered entity reaches
13 a contribution, independent expenditure, covered transfer or educational expenditure
14 threshold set forth in subsection (1) of this section.

15 (3)(a) An initial donor identification list filed under subsection (1)(a) or (b) of this section
16 must include the information required under subsection (4) of this section for the period
17 ending on the date that the obligation to file a list under subsection (1) of this section is
18 created and beginning 12 calendar months before the covered entity was required to file a list
19 under subsection (1) of this section.

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

25 (c) A covered entity that files a subsequent donor identification list under subsection (2)
26 of this section must include the information required under subsection (4) of this section for
27 the period ending on the date that the obligation to file a subsequent list under subsection
28 (2) of this section is created and beginning:

29 (A) For subsequent donor identification lists required because the covered entity has
30 reached the contribution, independent expenditure, covered transfer or educational expendi-
31 ture thresholds set forth in subsection (1)(a) or (b) of this section, 12 calendar months pre-
32 viously or the date on which the obligation to file the most recent previously filed list was
33 created, whichever is more recent; or

34 (B) For subsequent donor identification lists required because the covered entity has
35 reached the contribution, independent expenditure, covered transfer or educational expendi-
36 ture thresholds set forth in subsection (1)(c) or (d) of this section, 10 years previously or the
37 date on which the obligation to file the most recent previously filed list was created, which-
38 ever is more recent.

39 (4) Each donor identification list must include:

40 (a) The name of the donor;

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

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

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

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

1 (f) Each date on which the donor made a donation to the covered entity during the ap-
 2 plicable period specified in subsection (3) of this section.

3 (5) A covered entity may establish a separate campaign account for the covered entity
 4 to use to make contributions, independent expenditures, covered transfers or educational
 5 expenditures. If a covered entity creates a separate campaign account under this subsection:

6 (a) All moneys raised by the covered entity for the purpose of engaging in political ac-
 7 tivity must be deposited into the account; and

8 (b) All contributions, independent expenditures, covered transfers and educational
 9 expenditures made by a covered entity must be made from the account.

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

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

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

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

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

29 (i) The information required under paragraph (a) of this subsection; and

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

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

37 (B) If the covered entity that does not establish a separate campaign account under
 38 subsection (5) of this section is required to file a donor identification list because during the
 39 28 days immediately preceding a primary or general election the covered entity makes ag-
 40 gregate contributions, aggregate independent expenditures, aggregate covered transfers or
 41 aggregate educational expenditures of between \$10,000 and \$50,000, the list that the covered
 42 entity files must include donor information for every donor that donated to the covered en-
 43 tity either \$2,500 or more in the previous 12 months or \$10,000 or more in the previous 10
 44 years.

45 (7)(a) If a covered entity establishes a separate campaign account under subsection (5)

1 of this section, the covered entity may not:

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

3 or

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

7 (b) If a covered entity does not establish a separate campaign account under subsection
8 (5) of this section, the covered entity may not accept an anonymous donation of \$1,000 or
9 more unless the covered entity places and retains the anonymous donation in an account
10 that contains no moneys that are used for the purpose of making:

11 (A) An educational expenditure or covered transfer; or

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

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

17 (9)(a) A covered entity that is required to file a donor identification list as a result of
18 making contributions or covered transfers shall file the list according to the time frame for
19 filing a statement of contributions under ORS 260.057 and 260.076, except that the time to file
20 starts on the day that the covered entity makes a contribution that meets or exceeds a
21 threshold for contributions or covered transfers set forth in subsection (1) of this section.

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

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

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

30 (a) The name and address of each person that supplied an advertisement to the com-
31 mercial advertiser;

32 (b) The specific services the commercial advertiser provided to the person or persons
33 that supplied the advertisement; and

34 (c) The total cost the commercial advertiser charged to the person or persons that sup-
35 plied the advertisement.

36 (2) Commercial advertisers shall make the books of account required to be maintained
37 under this section available for public inspection during normal business hours for a period
38 of no less than three years from the date the advertisement is last published, disseminated,
39 distributed or displayed by the commercial advertiser.

40 (3) Upon request, commercial advertisers shall provide the Secretary of State with copies
41 of the books of account required to be maintained under this section.

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

43 260.005. As used in this chapter:

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

45 (A) An individual whose name is printed on a ballot, for whom a declaration of candidacy,

1 nominating petition or certificate of nomination to public office has been filed or whose name is
 2 expected to be or has been presented, with the individual's consent, for nomination or election to
 3 public office;

4 (B) An individual who has solicited or received and accepted a contribution, made an expendi-
 5 ture, or given consent to an individual, organization, political party or political committee to solicit
 6 or receive and accept a contribution or make an expenditure on the individual's behalf to secure
 7 nomination or election to any public office at any time, whether or not the office for which the in-
 8 dividual will seek nomination or election is known when the solicitation is made, the contribution
 9 is received and retained or the expenditure is made, and whether or not the name of the individual
 10 is printed on a ballot; or

11 (C) A public office holder against whom a recall petition has been completed and filed.

12 (b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a
 13 candidate for the office of precinct committeeperson.

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

19 (3) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

20 (a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compen-
 21 sation or consideration, of money, services other than personal services for which no compensation
 22 is asked or given, supplies, equipment or any other thing of value:

23 (A) For the purpose of influencing an election for public office or an election on a measure, or
 24 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-
 25 itical committee; or

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

27 (b) The excess value of a contribution made for compensation or consideration of less than
 28 equivalent value.

29 (4) "Controlled committee" means a political committee that, in connection with the making of
 30 contributions or expenditures:

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

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

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

34 (a) The candidate, the candidate's agent, a member of the candidate's immediate family or any
 35 other political committee that the candidate controls has a significant influence on the actions or
 36 decisions of the political committee; or

37 (b) The candidate's principal campaign committee and the political committee both have the
 38 candidate or a member of the candidate's immediate family as a treasurer or director.

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

40 (7)(a) **"Electioneering communication" means a paid communication that is publicly dis-**
 41 **tributed within 60 days before a primary or general election and that:**

42 **(A) Refers to one or more clearly identified candidates in the election;**

43 **(B) Depicts the name, image, likeness or voice of one or more clearly identified candi-**
 44 **dates in the election; or**

45 **(C) Refers to a political party, measure or other question submitted to the electors in the**

1 election.

2 (b) **“Electioneering communication” does not mean:**

3 (A) A communication appearing in a news story, commentary, blog or editorial distrib-
 4 uted through the facilities of any broadcasting station, newspaper, magazine, website or
 5 other periodical publication of general circulation, unless the facilities are owned or con-
 6 trolled by a candidate, political committee or petition committee;

7 (B) A communication by a membership organization or corporation to its current mem-
 8 bers, stockholders or employees;

9 (C) A commercial communication that depicts a candidate’s name, image, likeness or
 10 voice only in the candidate’s capacity as owner, operator or employee of a business that ex-
 11 isted prior to the candidate’s declaration of candidacy; or

12 (D) A communication that constitutes a candidate debate or forum or that solely pro-
 13 motes a candidate debate or forum and that is made by or on behalf of the person sponsoring
 14 the debate or forum.

15 (c) As used in this subsection, **“publicly distributed” means a communication that is:**

16 (A) Aired by radio, television, cable, satellite, Internet, newspaper, periodical, billboard,
 17 mail or any other distribution of printed materials; and

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

19 [(7)] (8) **“Elector”** means an individual qualified to vote under Article II, section 2, of the Oregon
 20 Constitution.

21 [(8)] (9) Except as provided in ORS 260.007, **“expend”** or **“expenditure”** includes the payment or
 22 furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation
 23 by or on behalf of a candidate, political committee or person in consideration for any services,
 24 supplies, equipment or other thing of value performed or furnished for any reason, including support
 25 of or opposition to a candidate, political committee or measure, or for reducing the debt of a can-
 26 didate for nomination or election to public office. **“Expenditure”** also includes contributions made
 27 by a candidate or political committee to or on behalf of any other candidate or political committee.

28 [(9)] (10) **“Filing officer”** means:

29 (a) The Secretary of State:

30 (A) Regarding a candidate for public office;

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

32 (C) Regarding any measure; or

33 (D) Regarding any political committee.

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

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

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

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

42 [(10)] (11) **“Independent expenditure”** means **an electioneering communication** or an expendi-
 43 ture by a person for a communication in support of or in opposition to a clearly identified candidate
 44 or measure that is not made with the cooperation or with the prior consent of, or in consultation
 45 with, or at the request or suggestion of, a candidate or any agent or authorized committee of the

1 candidate, or any political committee or agent of a political committee supporting or opposing a
 2 measure. For purposes of this subsection:

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

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

7 (B) Been placed in a position within the campaign organization where it would reasonably ap-
 8 pear that in the ordinary course of campaign-related activities the person may authorize expen-
 9 ditures.

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

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

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

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

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

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

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

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

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

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

23 (B) The communication, as a whole, seeks action rather than simply conveying information; and

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

25 (d) “Made with the cooperation or with the prior consent of, or in consultation with, or at the
 26 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any
 27 political committee or agent of a political committee supporting or opposing a measure”:

28 (A) Means any arrangement, coordination or direction by the candidate or the candidate’s agent,
 29 or by any political committee or agent of a political committee supporting or opposing a measure,
 30 prior to the publication, distribution, display or broadcast of the communication. An expenditure
 31 shall be presumed to be so made when it is:

32 (i) Based on information about the plans, projects or needs of the candidate, or of the political
 33 committee supporting or opposing a measure, and provided to the expending person by the candidate
 34 or by the candidate’s agent, or by any political committee or agent of a political committee sup-
 35 porting or opposing a measure, with a view toward having an expenditure made; or

36 (ii) Made by or through any person who is or has been authorized to raise or expend funds, who
 37 is or has been an officer of a political committee authorized by the candidate or by a political
 38 committee or agent of a political committee supporting or opposing a measure, or who is or has been
 39 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal
 40 campaign committee or agent or from any political committee or agent of a political committee
 41 supporting or opposing a measure.

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

44 [(11)] (12) “Initiative petition” means a petition to initiate a measure for which a prospective
 45 petition has been filed but that is not yet a measure.

1 [(12)] (13) “Judge” means judge of the Supreme Court, Court of Appeals, circuit court or the
 2 Oregon Tax Court.

3 [(13)] (14) “Mass mailing” means more than 200 substantially similar pieces of mail, but does
 4 not include a form letter or other mail that is sent in response to an unsolicited request, letter or
 5 other inquiry.

6 [(14)] (15) “Measure” includes any of the following submitted to the people for their approval
 7 or rejection at an election:

- 8 (a) A proposed law.
- 9 (b) An Act or part of an Act of the Legislative Assembly.
- 10 (c) A revision of or amendment to the Oregon Constitution.
- 11 (d) Local, special or municipal legislation.
- 12 (e) A proposition or question.

13 [(15)] (16) “Occupation” means:

- 14 (a) The nature of an individual’s principal business; and
- 15 (b) If the individual is employed by another person, the business name and address, by city and
 16 state, of the employer.

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

20 [(17)] (18) “Petition committee” means an initiative, referendum or recall petition committee
 21 organized under ORS 260.118.

22 [(18)] (19) “Political committee” means a combination of two or more individuals, or a person
 23 other than an individual, that has:

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

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

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

33 [(19)] (20) “Public office” means any national, state, county, district, city office or position, ex-
 34 cept a political party office, that is filled by the electors.

35 [(20)] (21) “Recall petition” means a petition to recall a public officer for which a prospective
 36 petition has been filed but that is not yet a measure.

37 [(21)] (22) “Referendum petition” means a petition to refer a measure for which a prospective
 38 petition has been filed but that is not yet a measure.

39 [(22)] (23) “Regular district election” means the regular district election described in ORS
 40 255.335.

41 [(23)] (24) “State office” means the office of Governor, Secretary of State, State Treasurer, At-
 42 torney General, Commissioner of the Bureau of Labor and Industries, state Senator, state Repre-
 43 sentative, judge or district attorney.

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

45 260.402. (1) A person may not **directly or indirectly reimburse a person for making a con-**

1 **tribution or donation, or** make a contribution **or donation** in any name other than that of the
 2 person *[who]* **that** in truth provides the contribution **or donation**, to:

3 (a) Any other person, relating to a nomination or election of any candidate or the support of
 4 or opposition to any measure;

5 (b) Any political committee;

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

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

8 (2) Except as provided in subsection (3) of this section, a person, political committee, **covered**
 9 **entity** or petition committee may not knowingly receive a contribution prohibited under subsection
 10 (1) of this section or enter or cause the contribution to be entered in accounts or records in another
 11 name than that of the person *[by whom it was]* **that** actually provided **the contribution**.

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

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

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

17 260.232. (1) The Secretary of State may impose a civil penalty as provided in this section, in
 18 addition to any other penalty that may be imposed, for:

19 (a) Failure to file a statement, **list** or certificate required to be filed under ORS 260.044, 260.057,
 20 260.076, 260.078, 260.083, 260.112 or 260.118 **or section 3 of this 2015 Act.**

21 (b) Failure to include in a statement **or list** filed under ORS 260.044, 260.057, 260.076, 260.078,
 22 260.083, 260.112 or 260.118 **or section 3 of this 2015 Act** the information required under ORS
 23 260.044, 260.057, 260.076, 260.083 or 260.118 **or section 3 of this 2015 Act.**

24 (c) **Failure to maintain and make publicly available books of account in the manner re-**
 25 **quired under section 4 of this 2015 Act.**

26 (2)(a) If a person required to file has not filed a statement, **list** or certificate complying with
 27 applicable provisions of ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.085, 260.112 or 260.118
 28 **or section 3 of this 2015 Act** within the time specified in ORS 260.044, 260.057, 260.076, 260.078 or
 29 260.118 **or section 3 of this 2015 Act, or if a person required to maintain and make publicly**
 30 **available books of account under section 4 of this 2015 Act has failed to do so**, the Secretary
 31 of State by first class mail shall notify the person that a penalty may be imposed and that the person
 32 has 20 days from the service date on the notice to request a hearing before the Secretary of State.

33 (b) If the person required to file **or maintain books of account** is a candidate or the principal
 34 campaign committee of a candidate, the Secretary of State shall send the notice described in para-
 35 graph (a) of this subsection by first class mail to the candidate. The notice shall be used for purposes
 36 of determining the deadline for requesting a hearing under subsection (3) of this section.

37 (3) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
 38 shall be held by the Secretary of State:

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

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

44 (c) Upon the Secretary of State’s own motion.

45 (4) A hearing under subsection (3) of this section shall be held not later than 45 days after the

1 deadline for the person against [whom] **which** the penalty may be assessed to request a hearing.
 2 However, if requested by the person against [whom] **which** the penalty may be assessed, a hearing
 3 under subsection (3) of this section shall be held not later than 60 days after the deadline for the
 4 person against [whom] **which** the penalty may be assessed to request a hearing.

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

7 (6) The person against [whom] **which** a penalty may be assessed need not appear in person at
 8 a hearing held under this section, but instead may submit written testimony and other evidence,
 9 subject to the penalty for false swearing, to the Secretary of State for entry in the hearing record.
 10 The testimony and other evidence must be received by the secretary not later than three business
 11 days before the day of the hearing and may be submitted electronically.

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

13 (a) For failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
 14 260.076, 260.078, 260.083, 260.112 or 260.118, 10 percent of the total amount of the contribution or
 15 expenditure required to be included in the statement or certificate; [or]

16 (b) For each failure to include in a statement filed under ORS 260.044, 260.057, 260.076, 260.078,
 17 260.083, 260.112 or 260.118 the information required under ORS 260.044, 260.057, 260.076, 260.083 or
 18 260.118, 10 percent of the total amount of the contribution or expenditure required to be included
 19 in the statement[.];

20 **(c) For each failure to file a list required to be filed under section 3 of this 2015 Act, or**
 21 **to maintain and make publicly available books of account under section 4 of this 2015 Act,**
 22 **three times the amount of each donation required to be included in the list or three times**
 23 **the amount of each payment made to the commercial advertiser that is required to be in-**
 24 **cluded in the books of account, whichever is applicable; or**

25 **(d) For each failure to include the information required in a list under section 3 of this**
 26 **2015 Act, or in the books of account under section 4 of this 2015 Act, three times the amount**
 27 **of each donation required to be included in the list or three times the amount of each pay-**
 28 **ment made to the commercial advertiser that is required to be included in the books of ac-**
 29 **count, whichever is applicable.**

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

32 (9) Except as otherwise provided by this section, civil penalties under this section shall be im-
 33 posed as provided in ORS 183.745.

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

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

37 260.041. (1) Notwithstanding ORS 260.005 [(18)] **(19)** and except as provided in ORS 260.043, a
 38 candidate shall designate a political committee as the candidate’s principal campaign committee. A
 39 candidate may designate only one political committee as the candidate’s principal campaign com-
 40 mittee.

41 (2) A political committee may not be designated as the principal campaign committee of more
 42 than one candidate.

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

44 260.044. (1) If a person makes independent expenditures in a total amount of more than \$750 in
 45 a calendar year, the person shall use the electronic filing system adopted under ORS 260.057 to file

1 with the Secretary of State a statement of independent expenditures not later than seven calendar
 2 days after the total amount of independent expenditures exceeds \$750 in a calendar year.

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

6 (3) Except as provided in subsections (4) and (5) of this section, a person shall file a statement
 7 described in subsection (2) of this section not later than 30 calendar days after an independent ex-
 8 penditure is made.

9 (4)(a) A person shall file a statement described in subsection (2) of this section not later than
 10 seven calendar days after an independent expenditure is made. This paragraph applies to independ-
 11 ent expenditures made:

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

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

16 (b) If the person makes an independent expenditure prior to the 42nd calendar day before the
 17 date of the primary or general election and the person has not filed a statement under subsection
 18 (3) of this section by the 43rd calendar day before the date of the primary or general election, the
 19 person shall file a statement described in subsection (2) of this section not later than the 35th cal-
 20 endar day before the date of the primary or general election.

21 (5) For any special election, the secretary by rule may establish a period during which a person
 22 must file a statement described in subsection (2) of this section. The period may not extend beyond
 23 seven calendar days after an independent expenditure is made.

24 (6) Notwithstanding ORS 260.005 [(18)] (19), a person who solicits and receives a contribution
 25 or contributions is a political committee and shall file a statement of organization under ORS
 26 260.042 and the statements required by ORS 260.057, 260.076 or 260.078.

27 (7) For purposes of this section:

28 (a) An independent expenditure does not include a contribution to a candidate or political
 29 committee that is required to report the contribution on a statement filed under ORS 260.057,
 30 260.076 or 260.078 or a certificate filed under ORS 260.112;

31 (b) An independent expenditure does not include a contribution to a candidate who is not re-
 32 quired to file a statement of organization under ORS 260.043; and

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

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

36 (B) Delivered by the person to the designated candidate or political committee not later than
 37 seven business days after the contribution is received; and

38 (C) Required to be reported as contributions by a candidate or political committee on a state-
 39 ment filed under ORS 260.057, 260.076 or 260.078 or a certificate filed under ORS 260.112.

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

41 260.083. (1)(a) For a contribution, except as provided in ORS 260.085, a statement filed under
 42 ORS 260.044, 260.057, 260.076, 260.078 or 260.118 shall list:

43 (A) The name, occupation and address of each person, and the name and address of each poli-
 44 tical committee or petition committee, that contributed an aggregate amount of more than \$100 in
 45 a calendar year on behalf of a candidate or to a political committee or petition committee and the

1 total amount contributed by that person or committee; and

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

4 (b) For an expenditure, including an independent expenditure, a statement filed under ORS
5 260.044, 260.057, 260.076, 260.078 or 260.118 shall list:

6 (A) The amount and purpose of each expenditure made in an aggregate amount of more than
7 \$100 to a payee, the name or, if applicable, the business name of the payee of the expenditure, and
8 the city, or county if the payee 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, political committee or pe-
11 tition committee, a statement filed under ORS 260.044, 260.057, 260.076, 260.078 or 260.118 shall list:

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

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

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

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

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

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

27 (5) If a political committee makes an expenditure that qualifies as an independent expenditure
28 under ORS 260.005 [(10)] (11), the listing of the expenditure under this section shall identify any
29 candidates or measures that are the subject of the independent expenditure and state whether the
30 independent expenditure was used to advocate the election, passage or defeat of the candidates or
31 measures.

32 (6) As used in this section:

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

34 (b) "Contribution" and "expenditure" include a contribution or expenditure to or on behalf of
35 an initiative, referendum or recall petition.

36 **SECTION 11. Sections 2 to 4 of this 2015 Act and the amendments to ORS 260.005, 260.041,
37 260.044, 260.083, 260.232 and 260.402 by sections 5 to 10 of this 2015 Act become operative on
38 January 1, 2016.**

39 **SECTION 12. The Secretary of State may take any action before the operative date
40 specified in section 11 of this 2015 Act that is necessary for the secretary to exercise, on and
41 after the operative date specified in section 11 of this 2015 Act, all of the duties, functions
42 and powers conferred on the secretary by sections 2 to 4 of this 2015 Act and the amend-
43 ments to ORS 260.005, 260.041, 260.044, 260.083, 260.232 and 260.402 by sections 5 to 10 of this
44 2015 Act.**

45 **SECTION 13. This 2015 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
2 **on its passage.**

3
