

## **HONEST ELECTIONS: FIGHT POLITICAL CORRUPTION AND REQUIRE TRANSPARENCY I**

### **SECTION 1. Legislative Findings.**

- (1) All Oregonians should have a voice in Oregon's elections, and all Oregonians' voices should matter. But the democratic process has not functioned properly in Oregon for decades, in large part due to the lack of reasonable limits on political campaign contributions. All provisions of this Act, including its prohibitions, limits, reporting and disclosure requirements, and enforcement and bribery provisions, are reasonable and necessary to curb the reality and appearance of corruption, including quid pro quo corruption. The provisions of this Act also ensure the right of the people of Oregon to engage in democratic self-governance through full and effective participation in public debate and Oregon's electoral processes and ensure the right of the people of Oregon to elected officials who are responsive to their constituents.
- (2) Oregon's lack of any limits on campaign spending has resulted in the State being graded "F" overall in systems to avoid corruption by public officials. State Integrity Investigation of the Center for Public Integrity and Public Radio International in November 2015 graded Oregon an overall "F" in systems to avoid corruption by public officials. Oregon ranked 2nd worst of the 50 states in control of "Political Financing," better than only Mississippi.
- (3) Candidates for Oregon legislature raise and spend more in their campaigns, per capita, than in any other state, except New Jersey. They also receive more money (per capita) from corporations than in any other state, as illustrated by the outstanding series in *THE OREGONIAN: Polluted by Money: How Corporate Cash Corrupted One of the Greenest States in America* (2019). The average corporate contribution to winning candidates for the Oregon Legislature in 2018 was \$476,000 each.
- (4) The cost of political campaigns has increased significantly. The 2018 candidates for Governor spent over \$40 million, more than doubling the previous record. One individual gave \$3.45 million to the Republican candidate. Both major campaigns raised 70% of their funds from contributions of \$10,000 or more, only 10% from contributions of under \$500, and only 15% from contributions of under \$1,000.
- (5) Oregon candidates rely primarily on large contributions. During 2016-19, Oregon candidates for Governor and the Legislature received only 9% of their funds from contributions from individuals of \$1,000 or less--a lower percentage than in all but two states (California and Illinois).
- (6) The reasonable contribution limits in this Act will not prevent candidates, political

committees, or political parties from gathering the resources necessary for effective advocacy or drive their voices below the level of public notice. Candidates, committees, and parties were able to raise sufficient funds to campaign effectively:

- (a) During the 1996 election cycle under the lower contribution limits adopted by Oregon voters as Measure 9 of 1994;
  - (b) During the 2018 and 2020 election cycles under the lower contribution limits adopted by Multnomah County voters as Measure 26-184 of 2016 and upheld by the Oregon courts as meeting the requirements of the Oregon Constitution and U.S. Constitution.
  - (c) During the 2020 election cycle under the lower contribution limits adopted by City of Portland voters as Measure 26-200 of 2018 and upheld by the Oregon courts as meeting the requirements of the Oregon Constitution and U.S. Constitution.
- (7) The reasonable contribution limits in this Act will increase competition for public office, enhance opportunities for challengers to win public office, and foster a greater robustness of political debate in Oregon.
  - (8) Small donor contributions and donations from grassroots membership organizations present a reduced risk of corruption or the appearance of corruption to the people of Oregon; groups that contribute money raised from small donor contributions or that mobilize community members also present a reduced risk of corruption.
  - (9) Existing Oregon law requiring the reporting and disclosure of election-related spending fails to provide the public with complete information about the sources of money being spent to influence their votes, because it requires the disclosure of only direct contributors and because it sets the spending thresholds for enhanced disclosure on independent expenditures too high to capture significant spending on political advertisements. Such limited disclosure makes it easy for the original sources of election spending to hide behind nice-sounding committee, corporation, and association names and prevents the public from obtaining the information needed to evaluate the election messages they are receiving.
  - (10) The reporting and disclosure requirements in this Act will provide Oregonians with prompt, accessible, comprehensible, and public disclosure of the identity of top donors who give more than \$5,000 each to fund communications that influence elections and the original sources of those monies
  - (11) The reporting and disclosure requirements will provide more information about

candidates and the outside groups supporting or opposing them, as well as groups supporting or opposing ballot measures, and will enable voters to better evaluate the credibility of advertising about candidates and ballot measures.

- (12) The reporting and disclosure requirements will also assist law enforcement officials in obtaining the information necessary to enforce the prohibitions, limitations, and requirements of this Act and other campaign finance laws in Oregon.
- (13) The public financing program established in this Act will combat the reality and appearance of corruption and will enhance political participation by amplifying small dollar contributions from ordinary Oregonians with public funds.
- (14) By enlarging public discussion and participation in the political process and freeing candidates from the corrupting influence of large contributions from wealthy special interests, the public financing program will allow for more robust democratic self-governance, including by supporting candidates for elected office that lack access to networks of wealthy donors. The program thereby will encourage candidates across the political spectrum and from different backgrounds to seek public office, resulting in a pool of candidates that is more reflective of the diversity of all Oregonians.
- (15) The public financing program, in concert with the other provisions of this Act, will ensure Oregon has a strong and healthy democracy. Groups that organize people to increase participation in our democracy also play an important role in a strong and healthy democracy. Through a strong and healthy democracy, the government is accountable to all Oregonians.

**SECTION 2. Definitions.** Terms in this Act shall have the definitions provided in ORS Chapter 260, except as indicated in this section and in other sections of this Act.

- (1) "Business entity" means any entity which is legally separate from an individual and is operated for economic gain, including any such corporation, partnership, limited liability company, or proprietorship.
- (2) "Campaign media spending"
  - (a) Means spending monies to pay for:
    - (A) One or more political advertisements; or
    - (B) Research, design, production, polling, data analytics, mailing or social media list acquisition or any other activity conducted in preparation for or in conjunction with one or more political advertisements.

- (b) Does not include spending monies for any communication a membership organization makes to its members if the membership organization is not organized primarily for the purpose of influencing one or more elections.
- (3) "Candidate committee" means a political committee that is the principal campaign committee of a candidate.
- (4) "Candidate election political committee" means a candidate committee, a multicandidate committee, a political party multicandidate committee, a legislative caucus committee, or a small donor committee. It does not include any independent expenditure political committee, measure committee, petition committee, or recall committee.
- (5) "Contribute," "contribution," "expend" and "expenditure," notwithstanding ORS 260.005 and 260.007, do not include moneys provided to a candidate committee by a public body as defined in ORS 174.109 pursuant to a system of public funding of campaigns in which the candidate participates.
- (6) "Election cycle" means:
  - (a) Generally, the period between an election at which a candidate is elected and the next such election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.
  - (b) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
  - (c) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (7) "Election period" means:
  - (a) Generally:
    - (A) The period between an election at which a candidate is elected and the next primary election for that same office, disregarding any intervening recall or special election for that office; and
    - (B) The period between a primary election for an office and the next general election for that same office, disregarding any intervening recall or

special election for that office.

- (b) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
  - (c) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (8) "Entity" means any corporation, partnership, limited liability company, proprietorship, candidate committee, political committee, labor organization, association, firm, partnership, joint stock company, club, proprietorship, firm, enterprise, franchise, association, organization or other combination of persons that has collective capacity and is legally separate from other persons.
- (9) "Independent expenditure political committee" means a person who has received a contribution for the purpose of making an independent expenditure supporting or opposing a candidate or measure.
- (10) "In-kind contribution" means a contribution of a good or service, other than money, having value.
- (11) "In-kind personal services" means providing paid staff time to perform:
- (a) Canvassing, phone banking, and text banking;
  - (b) Volunteer outreach, management, and coordination activities;
  - (c) Identifying voter models for campaign communications;
  - (d) Interpretation and translation services;
  - (e) Providing security at events;
  - (f) Child care;
  - (g) Campaign planning;
  - (h) Care for persons who are elderly, disabled, or ill; or
  - (i) Transportation of candidate and campaign staff.
- (12) "Individual" means a human being.

- (13) "Labor organization" means an organization of any kind, or an agency or an employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.
- (14) "Legislative caucus committee" means a political committee established by a caucus of a political party in the Oregon Senate or House of Representatives and controlled by an elected leader of the caucus by which it was established. A political party may not establish more than one legislative caucus committee in each chamber of the Oregon Legislature.
- (15) "Local public office" means any county, district or city office or other government position that is filled by the electors, except a state public office, a national or federal office, or a political party office.
- (16) "Measure committee" means a political committee that supports or opposes one or more ballot measures.
- (17) "Membership organization" means an organization that:
- (a) Is tax-exempt under Internal Revenue Code § 501(c)(4) as a social welfare organization or § 501(c)(5) as a labor organization and been in existence for at least 18 months.
  - (b) Complies with federal tax law governing the organization's ability to engage in political activity; and
  - (c) If tax-exempt under Internal Revenue Code § 501(c)(4),
    - (A) Has registered as a charity regulated by the Oregon Department of Justice; and
    - (B) Has members, each of whom:
      - (i) Has taken action to join the organization; and
      - (ii) For each year of membership has either paid monetary membership dues or has made a donation of money or volunteer time or other thing of value to demonstrate ongoing engagement with the organization.

- (18) "Multicandidate committee" means a political committee formed for the purpose of supporting or opposing one or more candidates for election to public office in Oregon.
- (19) "Non-statewide state public office" means a non-statewide public office of the State of Oregon, including Representative and Senator in the Legislature, circuit court judge, and district attorney.
- (20) "Political party" means an entity that maintains legal status as a major political party under ORS 248.006 or as a minor political party under ORS 248.008, including the state central committee, all county or local committees, and any entity that is directly or indirectly established, financed, maintained, or controlled by such entity or its local subdivisions.
- (21) "Political party multicandidate committee" means a political committee that:
- (a) Is established and maintained by a political party or a subdivision of a political party; and
  - (b) Exclusively supports or opposes one or more candidates for election to public office in Oregon.
- (22) "Public office," notwithstanding ORS 260.005, means any state, county, district or city office or other government position that is filled by the electors, not including any national or federal office or political party office.
- (23) "Small donor committee" means a political committee that has never accepted a contribution in excess of those allowed by subsection (10) of Section 3 of this Act. A political committee may continue to qualify as a small donor committee, if it has returned every contribution in violation this subsection no later than thirty (30) calendar days after the contribution was received.
- (24) "State public office" means a non-statewide state public office or a statewide public office.
- (25) "Statewide public office" means a public office of the State of Oregon that is voted on by electors in all counties of the state.

### **SECTION 3. Contribution Limits.**

- (1)(a) A candidate or candidate election political committee may accept contributions only from the sources and in the amounts authorized by this Act.

- (b) No individual or entity shall make a contribution to a candidate or a candidate election political committee, except as specifically allowed to be received under this Act.
  - (c) Political committees other than candidate election political committees may not make contributions to candidates or candidate election political committees.
- (2) A candidate committee may accept only the following contributions during any election period:
- (a) From an individual, not more than:
    - (A) Two thousand dollars (\$2,000), if seeking statewide public office;
    - (B) One thousand dollars (\$1,000), if seeking non-statewide state public office; or
    - (C) Five hundred dollars (\$500), if seeking local public office.
  - (b) From any other candidate committee or multicandidate committee, not more than:
    - (A) Two thousand dollars (\$2,000), if seeking statewide public office;
    - (B) One thousand dollars (\$1,000), if seeking non-statewide state public office; or
    - (C) Five hundred dollars (\$500), if seeking local public office.
  - (c) From all of the political party multicandidate committees of any one political party in the aggregate, not more than:
    - (A) Fifty thousand dollars (\$50,000), if seeking statewide public office;
    - (B) Ten thousand dollars (\$10,000), if seeking non-statewide state public office; or
    - (C) Ten thousand dollars (\$10,000), if seeking local public office.
  - (d) From any legislative caucus committee, not more than:
    - (A) Five thousand dollars (\$5,000), if seeking state public office; or

- (B) One thousand dollars (\$1,000), if seeking local public office.
- (e) From any small donor committee, the greater of:
  - (A) All amounts up to fifty dollars (\$50) contributed to the small donor committee by any individual who resides in Oregon, is enrolled at an institution of education in Oregon, or is employed to work in Oregon; or
  - (B) Twenty thousand dollars (\$20,000) if seeking statewide public office, or ten thousand dollars (\$10,000) if seeking any other public office.
- (3) A candidate committee may also accept the following contributions during any election period:
  - (a) From any membership organization:
    - (A) Monetary contributions in an aggregate amount not to exceed \$20,000, which may consist of any combination of:
      - (i) Up to twenty thousand dollars (\$20,000) of actual membership dues or donations received by the membership organization from individuals who are members and who reside in Oregon, are enrolled at an institution of education in Oregon, or are employed to work in Oregon, not to exceed two hundred fifty dollars (\$250) from any member; and
      - (ii) Up to ten thousand dollars (\$10,000) from any source.
    - (b) In-kind contributions consisting of in-kind personal services not exceeding a total of twelve (12) full-time equivalent months across all individuals employed by the membership organization providing such services, with not less than six (6) of those full-time equivalent months consisting of coordinating the activities of unpaid volunteers.
- (4) Any membership organization may substitute in-kind personal services of equivalent value in place of the monetary contribution allowed by subsection (3)(a)(A) of this section, provided that the services consist of voter canvassing or coordination of volunteers.
- (5) Except as set forth in subsection (6) below, all contributions to candidate committees or independent expenditure political committees supporting or opposing a candidate made by membership organizations established, financed, maintained, or controlled, directly or indirectly, by the same person or the same

coordinated group of persons shall be considered to have been made by the same membership organization. Such organizations shall be considered joint. For purposes of this subsection:

- (a) Two or more membership organizations shall be considered financed by the same person or the same coordinated group of persons, if such organizations have received, directly or indirectly, more than 40% of their funding since the most recent general election from the same source of original funds or from the same coordinated group of sources of original funds. If a person or a coordinated group of persons provided original funds, directly or indirectly, constituting more than 50% of a membership organization's funds as of the day after the most recent general election, such funds shall be considered to have been provided since the most recent general election.
  - (b) Any person or coordinated group of persons that holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares of 50% or more of the total equity or outstanding voting shares of any entity shall be considered to control such entity.
  - (c) When a membership organization makes a contribution (other than to a measure committee or petition committee), the organization shall make best efforts to identify all other joint organizations under this subsection (5) to the recipient of the contribution. The recipient may rely on such information in determining whether the recipient may lawfully receive the contribution, unless the recipient has reason to know that such information is false or unreliable.
- (6) A membership organization will not be considered joint with another membership organization, if every decision about the organization's candidate-related contributions and campaign media spending is made independently from:
- (a) The person or coordinated group of persons who have established, financed, maintained, or controlled, directly or indirectly, the organization; and
  - (b) Other persons whose contributions and candidate-related campaign media spending are not made independently from the person or group of persons who established, financed, maintained, or controlled, directly or indirectly the membership organization.
  - (c) "Independently" means undertaken without, directly or indirectly, any consultation, coordination, consent, suggestion, control or express or implied agreement.
  - (d) Notwithstanding subsections (5) and (6)(a) of this section, a labor

organization that is exempt from taxation under Internal Revenue Code § 501(c)(5) will not be considered joint with any of its affiliates that are also § 501(c)(5) labor organizations.

- (7) All of the political party multicandidate committees of any one political party may accept only the following aggregate contributions during any calendar year:
  - (a) From any individual, not more than ten thousand dollars (\$10,000);
  - (b) From any candidate committee or multicandidate committee, not more than ten thousand dollars (\$10,000); and
  - (c) From any membership organization, not more than three thousand dollars (\$3,000).
- (8) A legislative caucus committee may accept only the following contributions during any calendar year:
  - (a) From any individual, not more than one thousand dollars (\$1,000);
  - (b) From any candidate committee of a candidate seeking state public office or any multicandidate committee, not more than five thousand dollars (\$5,000); and
  - (c) From any candidate committee of a candidate seeking local public office, not more than one thousand dollars (\$1,000).
- (9) A multicandidate committee may accept only the following contributions during any calendar year:
  - (a) From any individual, not more than one thousand dollars (\$1,000); and
  - (b) From any candidate committee or other multicandidate committee, not more than one thousand dollars (\$1,000).
- (10) A small donor committee may accept contributions only from individuals and in an amount not exceeding two hundred fifty dollars (\$250) in a calendar year from any individual.
- (11) An entity may make independent expenditures in support of or opposition to a candidate, even if it makes coordinated expenditures with or in-kind contributions to a candidate who is supported by (or whose opponent is opposed by) its independent expenditures, so long as an effective firewall is maintained. An entity

who relies upon a firewall bears the burden of proof of showing that the firewall was effective. A firewall must:

(a) Separate the entity's staff and agents who provide in-kind contributions or coordinated expenditures from other staff and agents who make suggestions or decisions about expenditures that promote or support a candidate or attack or oppose a candidate's opponent;

(b) Forbid an entity's owners, executives, managers, and supervisors from simultaneously overseeing the strategy and decisions made by staff or agents separated by a firewall regarding contributions and expenditures, provided that the owners, executives, managers, and supervisors may participate in decisions to set overall budget allocations for the entity;

(c) Prohibit the flow of strategic non-public information between staff and agents who are separated by the firewall; and

(d) Be in writing and distributed to all relevant staff and agents before any relevant work is performed regarding both the general firewall policy and any specific firewall created pursuant to such a policy, and provided to the Secretary of State upon request.

(e) Notwithstanding paragraph (a) of this subsection, a firewall need not separate the work of volunteers or non-supervisory staff engaged in direct voter contact, provided that they follow the instructions of, and do not share strategic non-public information with, their supervisors who are separated by a firewall.

(12) No individual under sixteen (16) years of age shall make a contribution in excess of five hundred dollars (\$500) per calendar year to any single candidate election political committee.

(13) No foreign national, corporation or entity shall, directly or indirectly, make or offer to make a contribution or a disbursement for campaign media spending. A foreign national is a foreign principal, as defined by 22 U.S.C. § 611(b), but shall not include any individual who is a citizen of the United States, who is a national of the United States, who is lawfully admitted for permanent residence to the United States, or who resides in Oregon. A foreign corporation or entity includes:

(a) A corporation or other combination of persons of which one or more foreign nationals own more than 20% in aggregate of its equity or voting shares, disregarding equity or voting shares held through a United States widely held diversified fund, such as a mutual fund that has more than 100 participants;

- (b) A corporation or other combination of persons in which any foreign national participates in the decision-making process regarding the entity's contributions or campaign media spending disbursements; or
  - (c) An Internal Revenue Code § 501(c)(4) organization whose aggregate contributions from foreign nationals are 20% or more of its gross receipts in the most recent taxable year.
- (14) This section does not apply to a candidate's personal contributions or expenditures to assist the candidate's campaign.
- (15) A political committee shall not contribute to any other political committee any amount in accordance with instructions from a contributor that some or all of the contribution be contributed to the campaign of another candidate or to a political committee. The penalty for violation of this provision is forfeiture of the amount contributed, in addition to penalties that may be assessed under other provisions of law.
- (16) On January 1 of each odd-numbered year, the Secretary of State shall adjust the dollar amounts set forth in this section by the cumulative change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor, since the previous adjustment. The adjustments shall be rounded to the nearest twenty-dollar (\$20) increment.

#### **SECTION 4. Candidate Personal Loans and Expenditures.**

- (1) During any election cycle, a candidate committee may repay an aggregate total in loans to the committee by the candidate:
- (a) Fifty thousand dollars (\$50,000), if a candidate for statewide public office; or
  - (b) Ten thousand dollars (\$10,000), if a candidate for other public office.
- (2) Every loan by a candidate to the candidate's candidate committee outstanding at the close of the election cycle shall be considered a contribution and shall not be repaid from committee funds.
- (3) All expenditures by a candidate in support of the candidate's election are contributions to the candidate's candidate committee.
- (4) On January 1 of each odd-numbered year, the Secretary of State shall adjust the

dollar amounts set forth in this section by the cumulative change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the of the United States Department of Labor, or its successor, since the previous adjustment. The adjustments shall be rounded to the nearest twenty-dollar (\$20) increment.

## **SECTION 5. Separate Segregated Political Committee Funds.**

Any business entity, labor organization, or nonprofit entity may establish or administer a separate, segregated fund that operates as a political committee, if:

- (1) The fund files as a multicandidate committee in the manner set forth in ORS 260.042 and files all reports required of a political committee;
- (2) The fund consists solely of voluntary contributions from the individual employees, officers, shareholders or members of the entity, or from membership dues from a 501(c)(5) labor organization, with the aggregate amount contributed by each individual conforming to the limits set forth in section 3 of this Act; and
- (3) Any solicitation for contributions directed to employees of an entity states that there is no required contribution and that the employee's decision to contribute or not contribute will not affect the employee's employment and will not be disclosed to the employee's supervisors or managers.

## **SECTION 6. Disclosure and Disclaimer of Funding Sources.**

- (1) Additional Definitions.
  - (a) "Anonymous source" means any source of funds or contributions for which the recipient does not have the name and address of the person providing the funds or contributions.
  - (b) "Business income" means funds received by a person in commercial transactions in the ordinary course of the person's regular trade, business, or investments. It does not include contributions or donations, except for membership or union dues or donations paid to the person to the extent such dues or donations do not exceed two thousand five hundred dollars (\$2,500) from any person in any calendar year.
  - (c) "Covered person" means any person:
    - (A) Whose total campaign media spending or acceptance of in-kind contributions used for campaign media spending, or a combination of

both, in a calendar year is more than:

- (i) Ten thousand dollars (\$10,000) relating to a candidate for statewide public office or fifty thousand dollars (\$50,000) aggregate relating to more than one candidate for statewide office; or
  - (ii) Five thousand dollars (\$5,000) relating to a candidate for public office other than statewide public office or twenty-five thousand dollars (\$25,000) aggregate relating to more than one candidate for public office other than statewide public office; or
  - (iii) Ten thousand dollars (\$10,000) relating to a measure in a local government jurisdiction with a population of less than 60,000; or
  - (iv) Thirty thousand dollars (\$30,000) relating to a measure in a local government jurisdiction with a population of 60,000 or more; or
  - (v) Fifty thousand dollars (\$50,000) relating to a statewide measure; and
- (B) Who has received more than \$5,000 in contributions in the aggregate in a calendar year from any one person.

The amount of a person's candidate-related campaign media spending includes campaign media spending made by entities established, financed, maintained or controlled by that person or by substantially the same group of persons, consistent with Sections 3(5) and (6) of this Act.

- (d) "Independent campaign spending" means an independent expenditure as defined by ORS 260.005(10).
- (e) "Intermediary" means a person which contributes, donates, or transfers funds that are not the person's original funds.
- (f) "Major source" means any person which has provided more than five thousand dollars (\$5,000) of original funds during a calendar year to a covered person, either directly or through intermediaries.
- (g) "Original funds" means business income or personal funds.
- (h) "Personal funds" means:
  - (A) income received by an individual, including:

- (i) salary and other earned income from bona fide employment.
  - (ii) interest, dividends and proceeds from the individual's personal investments; or
  - (iii) bequests to the individual, including income from trusts established by bequests.
- (B) Exception: "Personal funds" does not mean any asset or income received from any person for the purpose of influencing any election.
- (i) "Physical harm exception" means that the identity of a source of original funds is not subject to the requirements of the specified subsection, and the exception applies if:
- (A) The source's identity as a person making contributions or expenditures is otherwise protected from disclosure by law or a court order; or
  - (B) The source demonstrates to the Secretary of State that there is a reasonable probability that public knowledge of the source's identity would subject the source or the source's family to a serious risk of physical harm.
- (j) "Political advertisement" means a public communication in support of or in opposition to a clearly identified candidate or measure, as defined in ORS 260.005(10)(c).
- (k) "Prominently disclose" means:
- (A) The disclosure is readily comprehensible to a person with average reading, vision and hearing faculties;
  - (B) If the political advertisement appears or is distributed more than 14 days prior to the date of the election, the disclosure is current to within ten (10) days of the printing of printed material or within five (5) days of the sending of electronic text or email or the posting of information on the internet or the transmitting of a video or audio public communication;
  - (C) If the political advertisement appears or is distributed during the 14-day period prior to the date of the election, the disclosure is current to within two (2) days of the printing of printed material or the sending of electronic text or email or the posting of information on the internet or

the transmitting of a video or audio public communication; and

(D) The disclosure meets these requirements:

- (i) For a printed public communication, a printed disclosure in a typeface of clearly contrasting color and in a font size that is at least as large as the font size used for the majority of the text in the printed material.
- (ii) For an audio public communication, an auditory disclosure that is spoken clearly at a maximum rate of five words per second; however, live audio communications through a phone bank or canvas need only identify the name of the covered person responsible for the communication and the covered person's largest major source of funding.
- (iii) For an audio public communication through a canvas, no script is required if the canvasser is delivering a printed public communication containing the disclaimer required by subsections (6) to (9) of this section, and the canvasser is a volunteer.
- (iv) For a video public communication, a visual disclosure that is readable without the use of closed captioning and is visible for four or more seconds with an auditory disclosure conforming to the requirements of subparagraph (ii).
- (iv) For an internet or electronic public communication:
  - a) For a text or graphic communication, a visual disclosure that has a contrast ratio of at least 7:1 and a font size that is at least as large as the font size used for the majority of the text used in the communication.
  - b) For an audio communication, an auditory disclosure that conforms to the requirements of subparagraph (ii).
  - c) For a video communication, a visual disclosure that conforms to the requirements of subparagraph (iii) with an auditory disclosure that conforms to the requirements of subparagraph (ii), except a video communication that is shorter than 10 seconds may omit the auditory disclosure.
- (v) For a billboard or printed sign, the disclosure appears in a typeface

of clearly contrasting color and occupies not less than twenty percent (20%) of the space.

- (vi) For any other type of communication, the disclosure at least as clear and conspicuous as the disclosure specified in the other subparagraphs of this subsection (D).
- (E) In the case of any internet or electronic public communication which is disseminated through a medium in which the provision of all of the required information specified in subsections (6) - (8) of this section is not technologically possible, or the communication consists of a text message over a cellular telephone system, the communication shall, in a clear and conspicuous manner:
  - (i) State the name of the covered person paying for or responsible for the content of the political advertisement;
  - (ii) State the name of the covered person's largest major source; and
  - (iii) Provide a means for the recipient of the communication to obtain the remainder of the information required under Section 6(8) with minimal effort, not to exceed one click, and without receiving or viewing any additional material other than such required information and a link to organization's website.
- (l) "Public communication" means a paid communication by means of:
  - (A) Broadcast, cable, satellite, or internet or other digital method, including text messages, mass emails and social media posts; and
  - (B) Newspaper, magazine, outdoor advertising facility, signs, mass mailing, telephone bank, robocall or any other form of general public political advertising or marketing, regardless of medium.
- (m) "Public communication" does not include:
  - (A) Small items worn or carried by persons (such as buttons, pins, stickers, or pens), bumper stickers, signs smaller than 8 square feet, or any communication where the required disclosure would violate federal law or regulations;
  - (B) Communications with a fair market value of less than one thousand dollars (\$1,000) for the entire placement of the communication plus

substantially similar communications (not the value or cost per view or per click or per action or per message or per email or per call or the like);

- (C) Communications between an organization or its affiliate and its employees, members, officers, board members, or stockholders;
- (D) Bona fide news stories, commentaries or editorials distributed through the facilities of any media organization, including any television or radio station, newspaper, magazine or other regularly published periodical; provided, that the media organization:
  - (i) Is not paid by any person or entity for distributing the news story, commentary or editorial, apart from normal advertisers;
  - (ii) Is not owned or controlled by one or more candidates, political committees, or political parties; and
  - (iii) Does not distribute the news story, commentary, or editorial by unsolicited mailings or other means of distribution not requested by the recipient, including any paid advertisement in any other medium; or
- (E) Phone banking or text banking, provided that at least 80 percent of such communications are made by volunteers. In applying this provision:
  - (i) The use of paid staff to support or supervise volunteers making such communications shall not cause such communications to be public communications.
  - (ii) The disbursement of funds for technology or equipment, such as an autodialer, to assist individuals in making such live communications shall not cause such communications to be public communications.
  - (iii) This exception does not include robocalls, automated text messages, or any other telephonic communications that are prerecorded in whole or in part.

## **Disclosure Requirements**

- (2) A covered person, including an independent expenditure political committee or a person making an independent expenditure, must file statements of contributions

identifying the original sources of funds as set forth below in subsection (3) of this section. This disclosure is in addition to any other campaign finance reporting requirements and shall be filed consistent with the reporting timelines set forth in ORS 260.057.

- (3) Any statement of contributions filed by a covered person shall include the following information, if not previously reported:
  - (a) The identity of each person who contributed, directly or indirectly, more than \$5,000 in original funds in the calendar year to the reporting person and the date and amount of each such contributor's contributions; and
  - (b) The identity of persons who acted as intermediaries by transferring, in whole or part, original funds to the reporting person and the date, amount, and source (original and intermediate) of such transferred funds.
  - (c) This subsection (3) is subject to the physical harm exception.
- (4) Any person who makes a contribution in excess of five thousand dollars (\$5,000) in the aggregate during a calendar year to a covered person must inform the covered person of the identity of the sources of original funds being transferred exceeding two thousand five hundred dollars (\$2,500) from any source, the amount of such source's original funds being contributed, and any persons who previously transferred the original funds.
  - (a) The contributor must provide this information within fourteen (14) calendar days of the funds becoming available for campaign media spending. During the shortened seven (7) calendar day reporting period before an election, as set forth in ORS 260.057(3), the contributor must provide this information within four (4) calendar days of the funds becoming available for campaign media spending.
  - (b) The contributor must only disclose the identity of sources of original funds up to the amount contributed to the covered person which may be used for campaign media spending. ||
  - (c) For contributions made by membership organizations to candidate committees, the contributing membership organization shall be considered the source of original funds for such contributions, provided that the contributions do not exceed the limits on such contributions under Section 3(3) of this Act. ||
  - (d) In identifying the sources of original funds being transferred to a covered person that would be available for campaign media spending in support of or opposition to a candidate, the contributor may exclude:

- (A) Donations received from an affiliated charitable organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code;
  - (B) Donations and grants received from foundations and other persons who have prohibited the use of funds for candidate campaign media spending; and
  - (C) The value of in-kind contributions of polling services or results.
- (e) In identifying the sources of original funds being transferred to a covered person that would be available for campaign media spending in support of or opposition to a measure, the contributor may exclude:
- (A) Donations and grants received from foundations and other persons who have prohibited the use of funds for measure campaign media spending; and
  - (B) The value of in-kind contributions of polling services or results.
- (f) This subsection (4) is subject to the physical harm exception.
- (5) Except for a candidate election political committee that submits statements of contributions and expenditures required by ORS 260.057 or 260.078 and complies with the contribution limits set forth in this Act, a covered person may not use or transfer a donor's monies for campaign media spending:
- (a) Unless the person has notified the donor that its donated monies may be used for campaign media spending in Oregon and that the donor may opt out of having the donation so used.
  - (b) The notice must:
    - (A) Inform donors that their monies may be used for campaign media spending in Oregon and that information about donors may have to be reported to the appropriate government authorities in Oregon for public disclosure;
    - (B) Inform donors that they can each opt out of having monies used or transferred for candidate campaign media spending in Oregon, measure campaign media spending in Oregon, or both, by notifying the recipient of the donation in writing within ten (10) days after receiving

the notice; and

- (C) Comply with rules adopted by the Secretary of State to ensure that the notice is clear and that it accomplishes the purposes of this section.
- (c) The notice need not be sent to a donor who has consented in writing to the use of the donated funds for candidate campaign media spending, measure campaign media spending, or both.
- (d) The recipient may designate any donor as having opted out of having its funds used for either candidate or measure campaign media spending, provided that such donor's funds are not used for the prohibited campaign media spending.
- (e) Funds for which the donor has opted out are not subject to the reporting requirements of subsections (2) - (5) of this section or the disclaimer requirements of subsections (7) - (8) of this section.

### **Disclaimer Requirements**

- (6) Each political advertisement shall include a disclaimer that prominently discloses the names of the persons that paid to provide or present it.
- (7) Each political advertisement by one or more covered persons shall also include a disclaimer that prominently discloses the information specified below for each of the four major sources providing the largest amounts of original funds during the current calendar year to the covered persons.
  - (a) This information shall be introduced by language similar to: "The top donors who helped pay for this ad are \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_."
  - (b) This subsection (7) is subject to the physical harm exception.
  - (c) The information shall include for each of the four major sources:
    - (A) The name of the major source; and
    - (B) The types of businesses from which the major source has obtained a majority of income over the previous 5 years. The type of business name used in the disclaimer shall be identified by the most accurate name associated with its 6-digit code of the North American Industry Classification System (NAICS).

- (C) Exception: Any such disclosure on a billboard or printed sign may include the required information only for the major source providing the largest amount of funding to each of the advertisers during the current election cycle.
- (8) The four largest major sources shall be determined by calculating the four donors of the most original funds, directly or indirectly, during the calendar year to the covered persons who are paying for the political advertisement.
  - (a) If fewer than four sources of funds qualify as major sources, an intermediary who transferred, directly or indirectly, more than \$5,000 to the covered persons during the election cycle shall be treated as a source of original funds.
  - (b) Major sources which have contributed identical amounts shall be ranked in order of which most recently provided funds to the covered persons.
  - (c) The covered person and persons acting in concert with the covered person shall not create or use another political committee or entity to avoid the disclosure of any person, business entity, or committee as a major source.
- (9) Every political advertisement related to a candidate's campaign and for which the covered person is a candidate committee shall prominently disclose the amount that the candidate has contributed to the candidate committee during the election cycle, if that amount exceeds twenty thousand dollars (\$20,000) in a statewide contest or five thousand dollars (\$5,000) in any other contest.

### **Other Requirements**

- (10) A covered person shall not use funds from anonymous sources to pay for a political advertisement. An intermediary shall not convey funds from anonymous sources to a covered person.
- (11) Any local government may adopt disclosure and disclaimer requirements that are more stringent than those required by this Act. Such local government requirements shall not reduce the applicability of the requirements of this Act.
- (12) The Secretary of State shall maintain an internet website that continuously displays:
  - (a) The top ten major sources of original funds, in aggregate to each candidate, candidate committee, petition committee, multicandidate committee, legislative caucus committee, political party multicandidate committee,

independent expenditure political committee, and measure committee; and

- (b) The top ten major sources of original funds, in the aggregate during the current calendar year and during the previous calendar year used to fund independent expenditures, with the candidates, petitions and measures supported or opposed by each such source.

For each source the website shall display the information required by subsection (7) of this section.

- (13) A person who solicits and receives a contribution or contributions for purposes of making an independent expenditure in support of or in opposition to a candidate or measure shall register as an independent expenditure political committee.

### **SECTION 7. Other Provisions.**

- (1) The Secretary of State may adopt rules to implement this Act.
- (2) Notwithstanding any filings made under ORS 260.042 or any other provision of law, for purposes of the contribution limits and other requirements established in this Act:
  - (a) All political committees established, financed, maintained or controlled by the same corporation, or substantially the same group of corporations, including all corporate affiliates and subsidiaries, are considered to be a single political committee;
  - (b) All political committees established, financed, maintained or controlled by the same labor organization unit, at any level, if the organization unit has the authority to make an independent decision as to which candidates to support or oppose, are considered to be a single political committee; and
  - (c) All political committees not described in subparagraph (a) or (b) of this paragraph that are established, financed, maintained or controlled by substantially the same group of persons or entities or combinations thereof are considered to be a single political committee.
- (3) Notwithstanding subsection (2) of this section, any person, corporation, labor organization, or entity, or substantially the same group thereof, may maintain both a small donor committee and a multicandidate committee.
- (4) Except for contribution limits applicable to small donor committees and membership organizations, any local government may adopt contribution limits that are lower

than those required by this Act for elections for local public office.

- (5) No person or entity shall make a contribution anonymously or in any name other than that of the individual or entity that provides the source of funds for the contribution.
- (6) No person or entity may, directly or indirectly:
  - (a) Require an employee or contractor to make a contribution or independent expenditure to support or oppose any candidate; or
  - (b) Provide or promise any benefit or impose or threaten any detriment due to a decision by an employee or contractor on whether to make a contribution or independent expenditure to support or oppose a candidate.
- (7) No person shall structure or attempt or assist in an attempt to structure any solicitation, contribution, donation, expenditure, disbursement, or other transaction so as to avoid any requirement of this Act or any rule or regulation prescribed thereunder.
- (8) As of 60 calendar days after the end of the applicable election cycle, no candidate committee shall carry forward unexpended funds in excess of:
  - (a) \$40,000 for a candidate for statewide public office;
  - (b) \$20,000 for a candidate for state senate;
  - (c) \$10,000 for a candidate for state representative; or
  - (d) \$5,000 for a candidate for any other public office.
- (9) On the 61st calendar day after the end of the applicable election cycle, any unexpended funds of any candidate committee in excess of the amounts specified in subsection (8) of this section shall be paid to the Secretary of State to apply to the cost of:
  - (a) A system of public funding of campaigns; or
  - (b) Producing the voters pamphlet, if no system of public funding of campaigns exists.
- (10) The funds identified in subsection (8) of this section may be used only for legitimate expenses allowed by ORS 260.407, including the payment of expenses incurred

by the candidate's duties as a holder of public office. Notwithstanding ORS 260.407, such funds may not be used to:

- (a) Pay compensation to the candidate or any relative of the candidate;
- (b) Make a purchase from a business or entity owned by the candidate or a relative of the candidate;
- (c) Make a contribution to another candidate or political committee or political party at any level of government;
- (d) Make an independent expenditure;
- (e) Make a donation to any entity or person, except a donation of no more than \$10,000 to a charitable 501(c)(3) nonprofit organization or a donation to cover the cost to attend an event sponsored by a nonprofit 501(c) organization, up to the reasonable advertised cost to sponsor one table or the equivalent amount needed for the candidate, staff and volunteers to attend the event.

(11) When a candidate files a declaration of candidacy for any public office, the funds carried over from a previous election cycle by that candidate's candidate committee shall not exceed five hundred dollars (\$500). Any unexpended funds of any candidate committee in excess of that amount shall at that time be paid to the Secretary of State to apply to the purposes stated in subsection (9) of this section.

(12) If a successful candidate for public office does not subsequently become a candidate for any public office in a future election, any unexpended funds carried over from a previous election cycle by that candidate's committee shall, at the time that the candidate's term as a public official expires, be paid to the Secretary of State to apply to the purposes stated in subsection (9) of this section.

(13) Any unexpended funds carried over from a previous election cycle by the candidate committee of an unsuccessful candidate for public office in the previous election cycle shall, one year after the date of that previous election, be paid to the Secretary of State to apply to the purposes stated in subsection (9) of this section.

(14) ORS 162.005(1) is amended to read:

“Pecuniary benefit” means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, but does not include a political campaign contribution reported in accordance with ORS chapter 260, **unless such**

**contribution is made in exchange for an explicit promise to perform or not perform an official act.**

- (15) The Secretary of State shall by rule provide to any political committee that is not organized as a small donor political committee an opportunity to reorganize as a small donor political committee before the end of twelve (12) months after the operative date of this Act.
- (a) This opportunity will be available only if, during the previous 24-month period, not less than 90 percent of the total amount of moneys contributed to the political committee was contributed by individuals in amounts not exceeding \$250 per individual donor per calendar year.
- (b) Any moneys held by the reorganized committee may be used in the same manner as any other moneys lawfully contributed to a small donor political committee.
- (16) The Secretary of State shall by rule provide to any miscellaneous political committee an opportunity to reorganize as a measure committee before the end of twelve (12) months after the operative date of this Act. prior to the operative date of this Act. Any moneys held by such reorganized committee may be used in the same manner as any other moneys contributed to a measure committee.
- (17) The Secretary of State shall reorganize as a multicandidate committee any miscellaneous political committee that exists as of the end of twelve (12) months after the operative date of this Act. During the period after the operative date specified in Section 11(1) of this Act and prior to such reorganization, any miscellaneous political committee shall comply with the requirements of this Act, as if it were a multicandidate committee.

**SECTION 8. Penalties.**

- (1) Penalties shall be proportionate to the offenses. Small, infrequent, and accidental violations shall receive light penalties. Large, frequent, or willful violations shall receive larger penalties to deter violations.
- (2) **Penalties for Contribution Limits Violations.**
- (a) Except as provided in subsection (4) of this section, each violation of any contribution limit in this Act shall be penalized by imposition of a civil fine which is not less than the amount of the unlawful contribution.
- (b) The recipient of any contribution that violates the contribution limits of this Act

may remedy the violation by refunding to the contributor, within ten (10) calendar days of receiving the contribution, an amount that renders the contribution in compliance with this Act.

- (c) The recipient of any contribution that violates the contribution limits of this Act may reduce the otherwise applicable penalty by fifty percent (50%) by refunding to the contributor an amount that renders the contribution in compliance with this Act within ten (10) calendar days of the date upon which the recipient reasonably should have known that the violation occurred.

- (3) **Penalties for Disclosure or Disclaimer Requirement Violations.** Except as provided in subsection (4) of this section, each violation of any disclosure requirement or disclaimer requirement in this Act or elsewhere in ORS Chapter 260 shall be penalized by imposition of a civil fine which is not less than one-tenth, nor more than two times, the total amount of the contribution or expenditure that was not properly disclosed or disclaimed.

(4) **Enhanced Penalties.**

- (a) Each successive knowing, willful or reckless violation of a provision of this Act involving a contribution or expenditure of five thousand dollars (\$5,000) or more by any person during a calendar year shall be penalized by imposition of a civil fine which is not less than the otherwise applicable minimum penalty multiplied by the number of such prior violations. The Secretary of State shall notify any person who is found to have violated this Act that subsequent reckless or heedless violations during the calendar year shall carry this enhanced minimum penalty. Such notice shall be deemed delivered when receipt by electronic mail is confirmed or three days after it is deposited into the United States mail system, with first class postage prepaid, with the date of mailing confirmed by postmark or by the records of the Secretary of State.
- (b) A knowing and willful violation of any provision of this Act, involving a contribution or expenditure of twenty thousand dollars (\$20,000) or more, shall be penalized by imposition of a civil fine which is not less than two times the otherwise applicable minimum penalty.

**SECTION 9. Enforcement Processes.**

- (1) The provisions of this Act shall be administered and enforced by the Secretary of State, the Attorney General, and Oregon electors.
- (2) The Secretary of State shall establish an Office of Candidate and Community Services to provide to any person assistance with complying with the requirements of this Act and other campaign finance regulations.

- (3) Any person may file a written complaint of a violation of any of the provisions of this Act with the Secretary of State or, if the violation is by a candidate for the office of Secretary of State, with the Attorney General, each of whom is designated the "filing officer" for the complaint.
- (a) Within two business days of receiving a complaint, the filing officer shall deliver to the subject or subjects of the complaint, via mail and electronic mail, a notice that the complaint has been filed and a copy of the complaint. The notice and copy of the complaint shall be deemed delivered when receipt by electronic mail is confirmed or three days after they are deposited into the United States mail system, with first class postage prepaid, with the date of mailing confirmed by postmark or by the records of the filing officer.
- (b) The notice shall specify the alleged violation, include a copy of the complaint, describe any opportunity for the subject or subjects of the complaint to cure or mitigate the alleged violation under the provisions of this Act, state that any subject of the complaint may require a contested case hearing before the Office of Administrative Hearings, and require that each subject of the complaint file an answer to the allegations within ten (10) days.
- (c) The complaint shall be dismissed, if the filing officer determines that the alleged violation has been promptly and fully cured or that the complaint is without basis in fact or law. A complainant may obtain judicial review in Circuit Court of a dismissal as an agency decision in another than contested case under ORS 183.484, if the alleged violation involves one thousand dollars (\$1,000) or more.
- (d) If the filing officer determines that the complaint should not be dismissed, the filing officer shall determine whether a violation occurred and issue a proposed order setting forth findings of fact, conclusions of law and civil penalty, accompanied by a notice of a right to a hearing as required by ORS 183.415 and ORS 183.745. A copy of the proposed order shall be provided to the complainant. That order will become final, unless the subject of the complaint or the complainant requests a contested case hearing within ten (10) business days of the issuance of the notice. The Office of Administrative Hearings shall conduct such hearing, if it is requested. The parties may agree to engage in alternative dispute resolution, but it shall not be required.
- (e) A contested case hearing at the Office of Administrative Hearings shall occur within forty-five (45) calendar days of the filing of the complaint. The complainant shall be granted limited party status, which shall include the right to attend the hearing, submit documentary evidence and memoranda, and seek judicial review of the final order. In addition, the complainant may seek

permission from the Hearing Officer for additional rights, including the ability to obtain discovery, cross-examine witnesses and present witnesses. The Hearing Officer has the sole authority to determine the scope of complainant's additional participation and to regulate the discovery sought by the complainant, the filing officer and the subject of the complaint. The Hearing Officer shall render a final order, setting forth findings of fact, conclusions of law and civil penalty within ten (10) days of the close of the hearing.

- (f) If, after a contested case hearing requested only by the complainant, the Hearing Officer does not substantively alter the filing officer's proposed order in a manner advocated by the complainant, the subject of the complaint may request an award of reasonable attorney fees from the complainant. In deciding such a request, the Hearing Officer shall consider the factors set forth in ORS 20.075 and the relative financial resources of the parties.
  - (g) If, after a contested case hearing requested only by the complainant, the Hearing Officer alters the filing officer's proposed order in a manner advocated by the complainant, the complainant may request an award of reasonable attorney fees to be paid by the filing officer. In deciding such a request, the Hearing Officer shall consider the factors set forth in ORS 20.075, and the relative financial resources of the parties.
  - (h) A party or limited party to the contested case hearing may appeal the decision of the Office of Administrative Hearings to the Court of Appeals as an agency decision in a contested case.
  - (i) If the Office of Administrative Hearings does not render a final decision within the allowed period, the complainant, the subject of the complaint or the filing officer may seek review in Circuit Court of the filing officer's proposed order. The Circuit Court shall base its decision upon the evidence presented to the Office of Administrative Hearings, if a hearing had been completed. If not, the Circuit Court may consider additional evidence from the parties and limited parties. The Circuit Court's decision is subject to appellate review under ORS 183.500.
  - (j) The final decision shall be enforced by the Secretary of State and the Attorney General. If neither enforces the decision within thirty (30) days of the decision becoming final (including judicial review), the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the State of Oregon.
- (4) Any person subjected to a violation of Section 7(6) shall have a civil cause of action against the violator and shall, upon proof of violation, recover a civil penalty of not less than \$20,000 per incident of violation.

## **SECTION 10. Campaign Finance Regulation Fund.**

- (1) The Campaign Finance Regulation Fund is established in the General Fund for the purposes of administering the provisions of this Act. The Legislative Assembly shall appropriate, allocate or otherwise make available to the fund an amount not less than \$10 million per biennium. The fund is continuously appropriated to the Secretary of State for the purposes of this Act.
- (2) To the extent that administering the provisions of this Act requires funding in excess of amounts currently provided to the Secretary of State, the additional funding shall be provided by:
  - (a) Terminating the Political Party Checkoff for Contribution program by repealing Chapter 911, Oregon Laws 2009, as amended by Chapter 9, Oregon Laws 2019 (ORS 305.754, ORS 305.756, ORS 305.757, and ORS 305.758);
  - (b) Revenue from fines assessed for violations of this Act and other provisions of ORS Chapter 260; and, if necessary
  - (c) The general fund.

## **Section 11. Additional Definitions for Public Funding of Candidate Campaigns.**

- (1) "Covered office" means the offices of Governor, Secretary of State, Attorney General, State Treasurer, Commissioner of Labor and Industries, state Senator, state Representative, state Supreme Court justice, state Court of Appeals judge, state Circuit Court judge, Tax Court judge, and District Attorney.
- (2)
  - (a) Except as provided in paragraphs (b) - (d) of this subsection, "maximum public match" means the receipt by a candidate for a covered office from the Grassroots Donor Elections Fund of an amount of moneys equal to the amount set forth in section 16 of this Act.
  - (b) For a candidate for a covered office who is running unopposed in the primary election, "maximum public match" means a candidate's receipt from the Grassroots Donor Elections Fund of either \$2,500 or five percent of the amount set forth in paragraph (a) of this subsection, whichever is larger, during the period ending on the date of the primary election and:
    - (A) If the candidate is running unopposed in the general election, either \$2,500 or five percent of the amount set forth in paragraph (a) of this subsection, whichever is larger, during the period beginning on the day

after the date of the primary election and ending on the date of the general election; or \$30,000 for unopposed Senate candidate; or

- (b) If the candidate is running opposed in the general election, the total amount of moneys remaining from the amount set forth in paragraph (a) of this subsection after the date of the primary election.
  - (c) For a candidate for a covered office who is running unopposed in the general election, "maximum public match" means a candidate's receipt from the Grassroots Donor Election Fund of either \$2,500 or five percent of the amount set forth in paragraph (a) of this subsection, whichever is larger, during the period beginning on the day after the date of the primary election and ending on the date of the general election and:
    - (A) If the candidate is running unopposed in the primary election, either \$2,500 or five percent of the amount set forth in paragraph (a) of this subsection, whichever is larger, during the period ending on the date of the primary election; or
    - (B) If the candidate is not running unopposed in the primary election, 50 percent of the amount set forth in paragraph (a) of this subsection during the period ending on the date of the primary election.
  - (d) If a candidate has received contributions from a single contributor in excess of the amount allowed in sections 11 or 12 of this Act prior to filing a notice of intent under section 12(1)(a) of this Act, the candidate must return the excess to the contributor within 30 days of filing the notice of intent under section 12(1)(a) of this Act. If the contribution cannot be returned to the contributor, it shall be transferred to the Grassroots Donor Election Fund. No penalty shall be levied for excess contributions returned or transferred in compliance with this paragraph.
- (3) "In-state individual" means a human being who resides in Oregon.
- (4) "Minimum number of in-state qualifying contributions" means the following number of in-state individuals that a candidate must receive qualified grassroots donor contributions from in order to participate in the Grassroots Donor Election Program:
- (a) 1,500 donors who give at least \$5 each and no more than \$250 each to a candidate for the office of Governor; or
  - (b) 200 donors who give at least \$5 each and no more than \$250 each to a

candidate for the offices of Secretary of State, State Treasurer, Commissioner of Labor and Industries, or Attorney General.

- (c) 150 donors who give at least \$5 each and no more than \$250 each to a candidate for the office of Supreme Court Justice.
  - (d) 50 donors who give at least \$5 each and no more than \$250 each to a candidate for the office of Court of Appeals Judge or Tax Court Judge.
  - (e) 25 donors who give at least \$5 each and no more than \$250 each to a candidate for the office of Circuit Court Judge or District Attorney.
  - (f) 200 donors who give at least \$5 each and no more than \$250 each to a candidate for the office of state Senator or state Representative.
- (5) "Nonmatching grassroots donor contributions" mean contributions in an aggregate amount of \$250 or less per election from an individual who does not reside in the state of Oregon or is under sixteen years of age.
- (6) "Participating candidate" is a candidate for a covered office who files a timely notice of intent to use the program unless and until the candidate withdraws from the program, is expelled from the program, or fails to be certified to use the program and the deadline for certification passes.
- (7) "Qualified grassroots donor contributions" means monetary contributions in an aggregate amount of no more than \$250 per election period from an in-state individual who is sixteen years of age or older to a candidate for a covered office.
- (8) "Qualifying period" means the period that begins on the day the period to file to run for the office being sought begins for the candidate and ends on the last day of the period the candidate can file to run for the office being sought.
- (9) "Relative" has the meaning specified by ORS 244.020(16).

## **SECTION 12. Public Funding of Candidate Campaigns.**

- (1) In order to participate in the Grassroots Donor Election Program, a candidate for a covered office:
- (a) Must file a notice of intent with the Secretary of State at any time during the period that begins immediately after the date of a general election and ends on the last day of the filing period for the relevant election;

- (b) Must collect at least the minimum number of in-state qualifying contributions during the qualifying period; and
  - (c) Must sign an affidavit designed by the Secretary of State by rule stating that the candidate will follow the requirements of the Grassroots Donor Election Program set forth in this Act.
- (2) A candidate who satisfies each requirement set forth in subsection (1) of this section shall receive from the Grassroots Donor Election Fund, subject to the applicable maximum public match for the office sought, an amount equal to:
- (a) \$20 for every \$1 of the first \$25 in aggregate qualified grassroots donor contributions per individual per election period; and
  - (b) \$10 for every \$1 up to \$50 in aggregate qualified grassroots donor contributions per individual per election period.
- (3) In addition to qualified grassroots donor contributions and moneys received from the Grassroots Donor Election Fund under subsection (2) of this section and section 13 of this Act, participating candidates may:
- (a) Receive in an election period:
    - (A) Nonmatching grassroots donor contributions;
    - (B) Additional qualified grassroots donor contributions, to be matched under the formula in subsection (2) of this section, up to the maximum public match;
    - (C) No more than \$1,000 from any other candidate committee;
    - (D) From any small donor committee, the greater of:
      - (i) All amounts up to fifty dollars (\$50) contributed to the small donor committee by any individual who resides in Oregon, is enrolled at an institution of education in Oregon, or is employed to work in Oregon; or
      - (ii) Twenty thousand dollars (\$20,000) if seeking statewide public office, or ten thousand dollars (\$10,000) if seeking any other public office;
    - (E) No more than \$20,000 from any legislative caucus committee, provided that such committee obtained the funds by means of contributions from

individuals not exceeding \$250 per donor per calendar year;

(F) No more than \$20,000 from all of the political party multicandidate committees of any one party, provided that such committees obtained the funds by means of contributions from individuals not exceeding \$250 per donor per calendar year;

(G) From any membership organization:

(i) Monetary contribution in an aggregate amount not to exceed \$20,000, which may consist of any combination of:

a) Up to twenty thousand dollars (\$20,000) of actual membership dues or donations received by the membership organization from individuals who are members and who reside in Oregon, are enrolled at an institution of education in Oregon, or are employed to work in Oregon, not to exceed two hundred fifty dollars (\$250) from any member; and

b) Up to two thousand five hundred dollars (\$2,500) from any source.

(ii) In-kind contributions consisting of in-kind personal services not exceeding a total of twelve (12) full-time equivalent months across all individuals employed by the membership organization providing such services, with not less than six (6) of those full-time equivalent months consisting of coordinating the activities of unpaid volunteers.

(b) To establish the candidate's campaign, use an aggregate not to exceed \$6,000 per election cycle in:

(A) personal moneys; plus

(B) moneys raised from any legal source of up to \$500 per individual donor.

(4) During the election cycle, moneys received from the Grassroots Donor Election Fund:

(a) Shall be used only for legitimate campaign expenses, as defined by ORS 260.407 and rules of the Secretary of State; and

(b) Notwithstanding ORS 260.407, may not be used to:

- (A) Pay compensation to the candidate or any relative of the candidate;
  - (B) Make purchases from a business or entity owned by the candidate or a relative of the candidate;
  - (C) Pay for campaign expenditures at a price higher than fair market value;
  - (D) Make a contribution to the campaign of another candidate or political committee or political party at any level;
  - (E) Pay for fundraising expenses for any person or entity other than the candidate;
  - (F) Pay any legal expenses incurred by the candidate in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of the duties of the person as a candidate or public official;
  - (G) Pay any expenses incurred in connection with the recipient's duties as a holder of public office;
  - (H) Make a donation to any person, except a donation to cover the cost to attend an event sponsored by a nonprofit 501(c) organization, up to the reasonable advertised cost to sponsor one table or the equivalent amount needed for the candidate, staff and volunteers to attend the event; or
  - (I) Make an independent expenditure.
- (5) An entity may make independent expenditures in support of or opposition to a candidate, even if it makes coordinated expenditures with or in-kind contributions to a participating candidate who is supported by (or whose opponent is opposed by) its independent expenditures, so long as an effective firewall is maintained. An entity who relies upon a firewall bears the burden of proof of showing that the firewall was effective. A firewall must meet the requirements of Section 3(11) of this Act.
- (6) A candidate who participates in the Grassroots Donor Election Program may not receive contributions that are not authorized by this section.
- (7) A participating candidate who receives a contribution that exceeds the amount permitted by this section shall, within 30 days:

- (a) Return to the person making the contribution the amount contributed that is in excess of the limits or transfer the amount to the Grassroots Donor Election Fund, if returning the funds to the contributor within the timeline is impracticable; or
  - (b) Withdraw from the program and return to the Secretary of State for deposit into the Grassroots Donor Election Fund the total amount of public moneys distributed to the candidate.
- (8) (a) No later than 60 days after each general election, a candidate who participates in the Grassroots Donor Election Program shall return to the Secretary of State for deposit into the Grassroots Donor Election Fund any unspent public moneys that were provided to the candidate.
- (b) In order to ensure the return of unspent public moneys that are required to be returned under this subsection, the candidate shall:
- (A) Keep detailed records establishing the total amount of moneys from the Grassroots Donor Election Fund and the total amount of moneys from other sources that compose the total amount of moneys deposited into the campaign bank account of the candidate; and
  - (B) After campaign expenses are paid, return a percentage of the total amount of moneys remaining in the account that is equal to the percentage of the total amount of moneys deposited into the account that came from the Grassroots Donor Election Fund.
- (9) Except as otherwise provided in section 11(2)(b) of this Act, a participating candidate may receive up to 50 percent of the maximum public match before the primary election.

### **SECTION 13. Distribution of Funds.**

- (1) The Secretary of State by rule shall establish a process for distributing moneys from the Grassroots Donor Election Fund to candidates who have met all of the requirements set forth in section 12(1) of this Act. As part of this process:
- (A) The Secretary of State shall certify that a candidate has completed each requirement set forth in this Act; and
  - (B) The Secretary of State shall authorize the provision of moneys up to the maximum public match in accordance with section 12(2) of this Act.

- (2) The Commission shall establish by rule the information participating candidates are required to submit in contribution statements for the Secretary to verify that such contributions are qualified grassroots donor contributions eligible for matching funds. The Secretary shall not distribute funds from the Grassroots Donor Election Fund for any contributions for which participating candidates fail to submit the required information.
- (3) Following an initial distribution made under subsection (1) of this section, the candidate shall file with the Secretary of State additional contribution statements in the form and on the schedule established by rule.
- (4) Payments to campaigns shall be made on a schedule created by rule but shall be no less frequent than monthly, provided that the amount owed is at least \$1,500, until ten weeks prior to each election and then no less frequent than every week.

#### **SECTION 14. Violations.**

- (1) A participating candidate who knowingly falsifies campaign records or who knowingly violates any provision of this Act:
  - (a) May no longer participate in the program;
  - (b) Shall be required to return to the Grassroots Donor Election Fund the total amount of public moneys distributed to the candidate under this Act, plus interest;
  - (c) Is personally liable for the return of any public moneys that have already been expended; and
  - (d) Is subject to criminal liability under ORS 260.993(2) and civil liability under ORS 260.995(2)(c) for a violation of ORS 260.715(1).
- (2) The Oregon Elections Commission shall conduct reasonable audits of participating candidates to ensure the integrity of the program.
- (3) A candidate may use the appeal mechanism established in ORS 246.910 to challenge any decision of the Oregon Elections Commission relating to the candidate's ability to participate in the Grassroots Donor Election Program.
- (4) A participating candidate may at any time voluntarily withdraw from the program by returning to the Secretary of State for deposit into the Grassroots Donor Election Fund the total amount of public moneys distributed to the candidate under this Act.

## **SECTION 15. Maximum Public Fund Match.**

- (1) The maximum public match for the period beginning on the day after the 2024 general election and ending on the date of the 2026 general election shall be:
  - (a) \$4,000,000 for a candidate for the office of Governor;
  - (b) \$300,000 for a candidate for the office of Secretary of State, Attorney General, State Treasurer, or Commissioner of Labor and Industries;
  - (c) \$75,000 for a candidate for the office of state Representative or state Senator;
  - (d) \$30,000 for a candidate for the office of Supreme Court Justice;
  - (e) \$10,000 for a candidate for the office of Court of Appeals Judge or Tax Court Judge; and
  - (f) \$5,000 for a candidate for the office of Circuit Court Judge or District Attorney.
  
- (2) Participating candidates may qualify for the following maximum public match amounts by collecting additional qualifying contributions, which may be submitted at any point during the election cycle. These maximum amounts are inclusive of the amounts set forth in subsection (1) of this section.
  - (a) A total of 4,000 qualifying contributions for a \$6,000,000 maximum public match, or a total of 8,000 qualifying contributions for a \$8,000,000 maximum public match, for the office of Governor;
  - (b) A total of 1,000 qualifying contributions for a \$750,000 maximum public match for the offices of Secretary of State, State Treasurer, Commissioner of Labor and Industries, or Attorney General;
  - (c) A total of 300 qualifying contributions for a \$300,000 maximum public match and a total of 450 qualifying contributions for a \$600,000 maximum public match for the office of state Senator or state Representative;
  - (d) A total of 450 qualifying contributions for a \$300,000 maximum public match for the office of Supreme Court Justice;
  - (e) A total of 150 qualifying contributions for a \$150,000 maximum public match for the offices of Court of Appeals Judge or Tax Court Judge; and

- (f) A total of 250 qualifying contributions for a maximum public match of the lesser of \$250,000 or \$1 per resident of the relevant district for the offices of District Attorney or Circuit Court Judge.

**SECTION 16. Grassroots Donor Election Fund.**

- (1) The Grassroots Donor Election Fund is established in the Secretary of State's office from the General Fund. Interest earned by the Grassroots Donor Election Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Secretary of State for the purpose of administering this Act.
- (2) Except as provided in subsection (3) of this Section, as soon as possible after the ending balance for a biennium is determined, an amount equal to one quarter of one percent (0.25%) of the amount of General Fund appropriations for that biennium shall be transferred to the Grassroots Donor Election Fund.
- (3) If the moneys in the Grassroots Donors Election Fund just prior to the time of a transfer equal at least two percent (2%) of the amount of General Fund revenues collected during the prior biennium, moneys that would otherwise be transferred to the Grassroots Donors Election Fund shall be deposited in the General Fund. If the moneys in the Grassroots Donors Election Fund just prior to the time of a transfer do not equal at least two percent (2%) of the amount of General Fund revenues collected during the prior biennium, the transfer to the Grassroots Donors Election Fund shall be made regardless of whether that transfer increases the amount in the Grassroots Donors Election Fund to at least two percent (2%) percent of the amount of General Fund revenues collected during the prior biennium.
- (4) The Legislative Assembly may appropriate moneys from the Grassroots Donor Election Fund only if the appropriation is approved by three-fifths of the members serving in each house of the Legislative Assembly.
- (5) The Grassroots Donor Election Fund consists of the amount transferred from the General Fund, moneys transferred to the fund by participating candidates and moneys paid into the fund under ORS chapter 260. The Grassroots Donor Election Fund shall accept all funds directed to it, including from the below sources:
  - (a) Grants, donations, contributions or gifts from any source to the Grassroots Donor Election Fund; and
  - (b) Funds transferred by participating candidates to the Grassroots Donor Elections Fund in accordance with this Act.

- (6) The Grassroots Donor Election Fund shall collect funds returned by participating candidates in accordance with Sections 11(2)(c), 13(6)(b), 12(7), 14(1), and 14(4) of this Act.

**SECTION 17. Oregon Elections Commission.**

- (1) The Oregon Elections Commission is hereby established.
- (2) The Commission shall:
  - (a) Oversee the administration the Grassroots Donor Election Program and the director of the program in the implementation of the program;
  - (b) Adopt bylaws and program administrative rules;
  - (c) Convene an advisory committee of elections stakeholders to consult on the content of administrative rules;
  - (d) Elect its own chair;
  - (e) Make decisions by a simple majority vote of members present, when quorum requirements are met.
  - (f) Publish the following fiscal reports:
    - (A) On September 1 of odd-numbered years, a report with the following information:
      - (i) The amount in the Grassroots Donor Elections Fund;
      - (ii) The approximate amount anticipated in the next transfer from the General Fund;
      - (iii) The Commission's analysis of the solvency of the Grassroots Donor Elections Fund through the end of the current election cycle; and
      - (iv) The options the Commission may pursue to ensure program solvency through the end of the current election cycle, if necessary.
    - (B) On February 1 of even-numbered years, a report with the following information:
      - (i) The amount in the Grassroots Donor Elections Fund after the transfer from

the General Fund;

(ii) The Commission's analysis of the solvency of the Grassroots Donor Elections Fund through the end of the current election cycle; and

(iv) The options the Commission may pursue to ensure program solvency through the end of the current election cycle, if necessary.

(g) Assess, after each election cycle, the performance of the Grassroots Donor Election program in its goals of decreasing actual and perceived corruption and enhancing political participation, using qualitative and quantitative metrics, and publish the assessment in a report.

(h) Administer, after each election cycle, a user experience survey to program participants and solicit specific recommendations for improvement.

(i) Make, after each election cycle, recommendations to the Legislature to improve the Grassroots Donor Election Program. In making its recommendations to the Legislature, the Commission shall assess whether any changes in excess of those permitted under subsection (3) of this section and any changes to other parts of the Grassroots Donor Election Program, including contribution limits for participating candidates, could improve program participation or improve the program's ability to meet its goals.

(3) If it is determined by the Commission that the fund may not be solvent through the end of an election cycle, the Commission shall: approve a staff-proposed plan to ensure solvency using one or more of the following options:

(a) Before February 1 of even-numbered years, if funds are clearly insufficient to cover all covered offices, the Commission must approve a plan to remove enough covered offices from the Grassroots Donor Election Program for the current election cycle that the program can reasonably be solvent; and

(b) Before July 15 of even-numbered years, the Commission may reduce the maximum public match available by no more than 5% from the previous election cycle or no more than 5% than the amounts in section 15 of this Act. The Commission may adjust the maximum public match in different amounts by office and races within offices, provided that it is done for the purpose of limiting the disruption for participating candidates. The Commission may completely or partially reverse the reduction before July 15 of even-numbered years, if a financial analysis shows that the Grassroots Donor Election Fund can be solvent in the current election cycle without the full reduction.

(4) During the six month period after the end of each election cycle, the Commission is

authorized to change the match rate of public funds provided from the Grassroots Donor Election Fund under section 12(2), the amount of qualified grassroots donor contributions eligible for matching public funds under section 12(2), the maximum public match amounts under section 15, the minimum number of in-state qualifying contributions under section 11(4), and the number of additional qualifying contributions under section 15(2) without legislative approval. Any changes made by the Commission under this provision must comply with the following limits:

- (a) Any changes to the match rate and the amount of qualified grassroots donor contributions eligible for matching public funds must ensure that a candidate receiving a \$250 qualified grassroots donor contribution from one individual in an election period will receive \$1,000 of matching public funds.
  - (b) The maximum public match amounts may be increased or decreased by no more than five percent (5%) each two-year election cycle.
  - (c) The minimum number of in-state qualifying contributions and the number of additional qualifying contributions required may be increased or decreased by no more than ten percent (10%) each two-year election cycle.
- (5) The Commission shall consist of eleven members.
- (a) All members must have shown a commitment to ensuring that Oregon's democracy is equitable, accessible, and inclusive and that the state government is accountable to all Oregonians. All members must have a demonstrated commitment to the principles enumerated in the legislative findings of this Act. The eleven members shall collectively reflect the diversity of the state of Oregon. To ensure geographic diversity of the Commission, at least one member must reside in each Congressional District in Oregon.
  - (b) The following persons are ineligible for membership on the Commission:
    - (A) Current elected officials, relatives, and members of their households, while the elected is in office and for a period of two years after the elected official leaves office;
    - (B) Candidates running for a covered office, relatives, and members of their households, while the candidate remains a candidate for a covered office and for a period of two years following the applicable election; and
    - (C) Staff and vendors to a candidate running for a covered office, while the candidate remains a candidate for covered office and for a period of two years following the applicable election.

- (c) Additional qualifications for membership may be adopted in the Commission's bylaws.
  - (d) At least three members must have demonstrated expertise in increasing democratic engagement among black communities, indigenous communities, or other communities of people of color. At least three members must have demonstrated expertise in campaign finance and government accountability policy best practices. At least three members must have experience in campaign strategy in competitive elections. At least one member must have demonstrated expertise in how policy decisions in public financing of elections programs affect the cost of such programs. At least one member must have demonstrated expertise in financial or governmental budgets. More than one of the requirements can be met by a single member.
  - (e) The application process to be a Commission member shall be open to the public. The Oregon Government Ethics Commission shall review the applications for whether the applicants meet the above requirements and send qualified applicants to the Governor for appointment in accordance with the requirements of this section. The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.
  - (f) The terms of the first eleven Commissioners shall be staggered so that five members' terms expire on April 30, 2025, and six members' terms expire on April 30, 2027.
  - (g) After the initial term for each of the first eleven members has expired, subsequent terms for each member shall begin on May 1 of odd-numbered years and shall last for four years. Members are limited to a maximum of two full terms. If a position is vacated during a term, it shall be filled for the unexpired term through the process described in paragraph (e). Members may continue to serve for a maximum of six months after the expiration of their terms, until their replacements are appointed.
  - (h) Upon notice and opportunity for a hearing, a member may be removed by a two-thirds majority vote of the Commission prior to the completion of the member's term for due cause only, as defined in the Commission's bylaws.
  - (i) The Commission shall make provision for regular meetings at fixed times no less frequent than six times per year. The program director may convene additional meetings as needed.
- (6) The administrative rules shall include:

- (a) The means by which and timing for participating candidates to report all contributions and expenditures to the program;
  - (b) The schedule by which the program distributes matching funds to certified candidates;
    - (A) The documents and information participating candidates must submit to the program to receive matching funds and remain in good standing in the program;
    - (B) The information participating candidates are required to submit in contribution statements for the Secretary to verify that such contributions are qualified grassroots donor contributions eligible for matching funds;
  - (c) Protocols to ensure program integrity; and
  - (d) Any other rules to implement the program effectively.
- (7) The Commission shall enforce the provisions of this Act pertaining to the Public Funding of Candidate Campaigns (Sections 11-16), as follows:
- (a) Penalties shall be proportionate to the offenses. Each violation of any provision of the Public Funding of Candidate Campaigns portion of this Act shall be punished by imposition of a civil fine which is not less than one quarter of, nor more than five times, the amount of the unlawful receipt of public funds, contribution or expenditure.
  - (b) For alleged violation of sections 11-16 of this Act, the Commission shall be the filing officer for purposes of section 9 of this Act.

**SECTION 18. Other Provisions.**

- (1) Using the Grassroots Donor Election Fund, the Secretary of State shall hire a sufficient number of program staff to carry out the following functions effectively:
  - (a) Program management;
  - (b) Voter education, support and outreach regarding Oregon's campaign finance laws, including the Grassroots Donor Election Program established in this Act;
  - (c) Candidate outreach and technical assistance; and
  - (d) Ensuring program integrity.

- (2) In addition to providing information certified as true about occupation, occupational background, educational background, and prior government experience, each candidate for a covered office submitting information to the voter pamphlets must disclose whether the candidate is participating in the Grassroots Donor Election program.
- (3) The voter pamphlets shall publish an accurate, plain language description of Grassroots Donor Election program as provided by the Oregon Elections Commission.
- (4) The Secretary of State, in consultation with the Oregon Election Commission, shall publish online data that can be easily understood by members of the public, such as maps, pie charts, and bar graphs, that shows contributions for each candidate for a covered public office by amount, type of contributor, and approximate location of contributor. This data shall include contributions from contributors who contributed in aggregate under \$100, without disclosing the names or addresses of such contributors.

#### **SECTION 19. Actions for Implementation.**

- (1) The Secretary of State and Oregon Elections Commission may take any action before the operative date of this Act that is necessary for the Secretary of State or Oregon Elections Commission to exercise, on and after the operative date, all of the duties, functions and powers conferred by this Act.
- (2) No later than September 15, 2023, the Secretary of State shall propose revisions to the manual on campaign finance that is adopted by administrative rule and made publicly available on the Secretary's website to ensure that it incorporates and describes the contents of this Act in a clear and straightforward manner.
- (3) No later than April 30, 2023, the first 11 members of the Oregon Elections Commission shall be appointed.
- (4) No later than November 1, 2023, the Oregon Elections Commission shall report to the interim committees of the Legislative Assembly responsible for campaign finance on the actions taken by the Secretary of State to implement the provisions of this Act.

#### **SECTION 20. Compliance Expense Trust Fund.**

- (1) Any person may establish a campaign finance compliance expense trust fund to be used for the sole purpose of defraying the accounting, recordkeeping, and legal

expenses incurred to ensure compliance with the provisions of this Act, ORS Chapter 259, ORS Chapter 260, administrative rules adopted to implement those laws, or any local campaign finance regulations.

- (2) The Oregon Government Ethics Commission shall be responsible for authorizing and regulating campaign finance compliance expense trust funds, using the procedures generally applicable to legal expense trust funds established pursuant to ORS 244.205 to 244. 221.
- (3) The proceeds of a campaign finance compliance expense trust fund may be used to:
  - (a) Defray accounting, recordkeeping, and legal expenses incurred or reasonably expected to be incurred to achieve compliance with the provisions listed in subsection (1) of this section, including expenses incurred in a contested case hearing or appeal arising out of an alleged violation of any provision of this Act.
  - (b) Defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established.
  - (c) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds and the discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.
- (4) A subject of a campaign finance complaint may not establish or maintain more than one campaign finance compliance expense trust fund at any one time.
- (5) The provisions of ORS chapter 130 do not apply to a trust fund established under this Act.
- (6) Contributions to a campaign finance compliance expense trust fund shall not be considered a campaign contribution to the subject of the campaign finance complaint for purposes of determining compliance with the contribution limits set forth in Section 3 of this Act.
- (7) Except as provided in paragraph (a) of this subsection, any person may contribute to a campaign finance compliance expense trust fund.
  - (a) A person may make contributions of moneys in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without

limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

- (b) A political committee as defined in ORS 260.005 that is a principal campaign committee of the subject of the campaign finance complaint may not contribute.
- (8) The Oregon Government Ethics Commission shall require the public disclosure of contributions received and expenditures made from the trust fund account at least quarterly.

### **SECTION 21. Conflicts, Severability, and Jurisprudence.**

- (1) To the extent any conflict exists, the provisions of this Act shall supersede any other law.
- (2) For purposes of determining the constitutionality of the provisions of this Act, every section, subsection and subdivision thereof shall be evaluated separately. If any section, subsection or subdivision thereof is held invalid, the remaining sections, subsections and subdivisions thereof shall remain in full force and effect. The courts shall sever any sections, subsections or subdivisions thereof necessary to render this Act consistent with the United States Constitution, Oregon Constitution and federal law. Each section, subsection and subdivision thereof shall be considered severable, individually or in any combination.
- (3) If, in the absence of this subsection, a court would determine that any numeric limit or threshold, percentage limit or threshold, time period or age limits otherwise set forth in this Act are in conflict with the United States Constitution or the Oregon Constitution, then the Secretary of State shall immediately adopt temporary rules to preserve the requirements of this act to the maximum extent possible.
- (4) If, in the absence of this subsection, a court would determine that any part of this Act may not be fully implemented on the ground that applicable constitutional law does not allow a provision of this Act to apply exclusively to individuals who reside in Oregon, are enrolled at institutions of education in Oregon, or are employed to work in Oregon, then such provision shall apply to all individuals.
- (5) If, in the absence of this subsection, a court would determine that any part of Act may not be fully implemented on the ground that applicable constitutional law requires that any individual or entity be wholly or partially exempt from any of the prohibitions or limitations contained in this Act, then such part of this Act shall be given a narrowing interpretation so as to avoid invalidation of any provision of this Act and to preserve the effectiveness of this Act to the maximum degree permissible under the United States Constitution and Oregon Constitution.

- (6) If, in the absence of this subsection, a court would determine that any part of Act may not be fully implemented on the ground that a prohibition, limitation, or required disclosure does not comply with applicable constitutional law, then such part of this Act shall be given a narrowing interpretation so as to avoid invalidation of any provision of this Act and to preserve the effectiveness of this Act to the maximum degree permissible under the United States Constitution and Oregon Constitution.
- (7) If a court makes a determination described in subsections (3), (4), (5) or (6) of this section and for any reason declines to adopt the adjustment described in the applicable subsection, then the Secretary of State shall immediately adopt temporary rules to preserve the requirements of this Act to the maximum extent possible. . The rules shall remain in place until the Secretary of State adopts permanent rules or the legislature acts.
- (9) Chapter 636, Oregon Laws 2019 (ORS 260.266) is repealed as of the first day of June following the effective date of this Act.
- (10) ORS 260.266, ORS 260.275, ORS 260.281, and ORS 260.285 are repealed as of the first day of June following the effective date of this Act.

## **SECTION 22. Operative Dates and Effective Date.**

- (1) Unless indicated otherwise, all provisions of this Act become operative on the first day of January following the effective date of this Act.
- (2) The requirements of Section 6 (Funding Sources Disclosure and Disclaimer) of this Act become operative on the first day of June following the effective date of this Act.
- (3) The Secretary of State may take any action before the operative dates specified in this Act that is necessary for the Secretary of State to exercise, on and after the operative dates specified in this Act, all of the duties, functions and powers conferred on the Secretary of State by this Act.
- (4) A political committee may take any action before the operative dates set forth in this Act that is necessary for the political committee to be in compliance with the requirements set forth in ORS 260.042, as amended by this Act.
- (5) This Act takes effect on the first date allowed under the Oregon Constitution.