

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 2680**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete line 3 and insert “260.266, 260.995, 305.754 and 305.796; and
3 declaring an emergency.”.

4 Delete lines 5 through 25 and delete pages 2 through 9 and insert:

5 **“SECTION 1. Sections 2 to 7 of this 2021 Act are added to and made
6 a part of ORS chapter 260.**

7 **“SECTION 2. As used in sections 2 to 7 of this 2021 Act:**

8 **“(1) ‘Election cycle’ means the period starting on the day after the
9 date of a general election and ending on the date of the next general
10 election.**

11 **“(2)(a) Except as provided in paragraphs (b) and (c) of this sub-
12 section, ‘maximum public match’ means the receipt by a candidate for
13 the office of state Senator or state Representative from the Small
14 Donor Elections Fund of an amount of moneys equal to the amount
15 set forth in section 7 of this 2021 Act.**

16 **“(b)(A) For a candidate for the office of state Senator or state
17 Representative who is running unopposed in the primary election,
18 ‘maximum public match’ means a candidate’s receipt from the Small
19 Donor Elections Fund of five percent of the amount set forth in par-
20 agraph (a) of this subsection during the period ending on the date of
21 the primary election and:**

1 “(i) If the candidate is running unopposed in the general election,
2 five percent of the amount set forth in paragraph (a) of this subsection
3 during the period beginning on the day after the date of the primary
4 election and ending on the date of the general election; or

5 “(ii) If the candidate is not running unopposed in the general
6 election, the total amount of moneys remaining from the amount set
7 forth in paragraph (a) of this subsection after the date of the primary
8 election.

9 “(B) For a candidate for the office of state Senator or state Repre-
10 sentative who is running unopposed in the general election, ‘maximum
11 public match’ means a candidate’s receipt from the Small Donor
12 Elections Fund of five percent of the amount set forth in paragraph
13 (a) of this subsection during the period beginning on the day after the
14 date of the primary election and ending on the date of the general
15 election and:

16 “(i) If the candidate is running unopposed in the primary election,
17 five percent of the amount set forth in paragraph (a) of this subsection
18 during the period ending on the date of the primary election; or

19 “(ii) If the candidate is not running unopposed in the primary
20 election, 50 percent of the amount set forth in paragraph (a) of this
21 subsection during the period ending on the date of the primary
22 election.

23 “(c) If a candidate has received contributions from a single person
24 in an aggregate amount of more than \$250 during an election cycle but
25 prior to filing a statement of intent under section 3 (1)(a) of this 2021
26 Act, the maximum public match shall be reduced by the total amount
27 of moneys received in contributions from a single person in an aggre-
28 gate amount of more than \$250 prior to the candidate filing a state-
29 ment of intent under section 3 (1)(a) of this 2021 Act.

30 “(3) ‘Minimum amount of in-state qualifying contributions’ means

1 the following amount of qualified small donor contributions from in-
2 state individuals that a candidate must receive in order to participate
3 in the Small Donor Elections Program:

4 “(a) \$10,000 in qualified small donor contributions for candidates for
5 the office of state Senator; or

6 “(b) \$6,000 in qualified small donor contributions for candidates for
7 the office of state Representative.

8 “(4) ‘Minimum number of in-state qualifying contributions’ means
9 the following number of in-state individuals that a candidate must
10 receive qualified small donor contributions from in order to participate
11 in the Small Donor Elections Program:

12 “(a) 400 donors for candidates for the office of state Senator; or

13 “(b) 250 donors for candidates for the office of state Representative.

14 “(5) ‘Nonmatching small donor contributions’ means, except as
15 otherwise provided by law:

16 “(a) Contributions in an aggregate amount of no more than \$250 per
17 election cycle from a person that is not an individual, including a
18 political committee, to a candidate for the office of state Senator or
19 state Representative; or

20 “(b) In-kind contributions to a candidate for the office of state
21 Senator or state Representative that, when combined with nonmatch-
22 ing small donor contributions described in paragraph (a) of this sub-
23 section and with qualified small donor contributions, result in an
24 aggregate amount of no more than \$250 from a person per election
25 cycle.

26 “(6)(a) Except as provided in paragraph (b) of this subsection,
27 ‘qualified small donor contributions’ means contributions in an ag-
28 gregate amount of no more than \$250 per election cycle from an indi-
29 vidual to a candidate for the office of state Senator or state
30 Representative.

1 “(b) In-kind contributions are not ‘qualified small donor contribu-
2 tions.’

3 “(7) ‘Qualifying period’ means the 120-day period that begins on the
4 date a candidate for the office of state Senator or state Representative
5 files a statement of intent to participate in the Small Donor Elections
6 Program.

7 “SECTION 3. (1) In order to participate in the Small Donor
8 Elections Program, a candidate for the office of state Senator or state
9 Representative:

10 “(a) Must file a statement of intent with the Secretary of State at
11 any time during the period that begins immediately after the date of
12 a general election and ends on the date 150 days before the date of the
13 next general election;

14 “(b) Must collect at least the minimum amount of in-state qualify-
15 ing contributions during the qualifying period;

16 “(c) Must collect at least the minimum number of in-state qualify-
17 ing contributions during the qualifying period;

18 “(d) Must sign an affidavit designed by the Secretary of State by
19 rule stating that the candidate will follow the requirements of the
20 Small Donor Elections Program set forth in sections 2 to 7 of this 2021
21 Act; and

22 “(e) May not have made or accepted a loan in an aggregate amount
23 of more than \$250 to the candidate’s campaign since the date of the
24 last general election at the time the candidate files a statement under
25 paragraph (a) of this subsection.

26 “(2)(a) Except as provided in paragraphs (b) and (c) of this sub-
27 section, a candidate who satisfies each requirement set forth in sub-
28 section (1) of this section shall receive from the Small Donor Elections
29 Fund an amount equal to \$6 for every \$1 in qualified small donor
30 contributions received from an in-state individual, provided that the

1 total amount received by the candidate from the fund does not exceed
2 the maximum public match. The distribution of moneys from the fund
3 shall be done in the manner set forth in section 4 of this 2021 Act.

4 “(b) During the period starting on the day after the date of a gen-
5 eral election and ending on the date of the next primary election,
6 moneys provided from the Small Donor Elections Fund under para-
7 graph (a) of this subsection may not apply to more than \$125 of the
8 qualified small donor contributions made by any individual to each
9 candidate.

10 “(c) During the period starting on the day after the date of a gen-
11 eral election and ending on the date of the next general election,
12 moneys provided from the Small Donor Elections Fund under para-
13 graph (a) of this subsection may not apply to more than \$250 of the
14 qualified small donor contributions made by an individual to each
15 candidate. The moneys provided from the Small Donor Elections Fund
16 shall apply to all qualified small donor contributions up to \$250 per
17 individual for each candidate who qualifies for the next general
18 election.

19 “(3) In addition to qualified small donor contributions and moneys
20 received from the Small Donor Elections Fund under subsection (2)
21 of this section and section 4 of this 2021 Act, candidates who partic-
22 ipate in the Small Donor Elections Program may:

23 “(a) Receive nonmatching small donor contributions from an un-
24 limited number of donors.

25 “(b) Use personal moneys, or moneys raised from any legal source,
26 to establish the candidate’s campaign. Moneys used or raised under
27 this paragraph:

28 “(A) May include aggregate amounts in excess of \$250 from any
29 person; and

30 “(B) May not be in an aggregate amount of more than \$6,000 per

1 election cycle.

2 “(4)(a) Except as provided in paragraph (b) of this subsection, con-
3 tributions received by a candidate who participates in the Small Donor
4 Elections Program may be used in any manner consistent with ORS
5 260.407.

6 “(b) Moneys received from the Small Donor Elections Fund under
7 subsection (2) of this section or section 4 of this 2021 Act:

8 “(A) Shall be used only for legitimate campaign expenses, as de-
9 termined by rule by the Secretary of State; and

10 “(B) May not be used to:

11 “(i) Pay salaries for family members of the candidate;

12 “(ii) Make purchases from a business or entity owned by the can-
13 didate or the candidate’s family;

14 “(iii) Pay for campaign expenditures at a rate greater than fair
15 market value;

16 “(iv) Make a contribution to the campaign of another candidate;

17 “(v) Pay for fundraising expenses for any person or entity other
18 than the candidate; or

19 “(vi) Make an independent expenditure.

20 “(5) A candidate who participates in the Small Donor Elections
21 Program may not:

22 “(a) Coordinate election activities with any entity that makes in-
23 dependent expenditures related to the candidate, the office the candi-
24 date is seeking or the election the candidate is participating in.

25 “(b) Receive contributions that are not authorized by this section.

26 “(c) Except as provided in subsection (3) of this section, receive
27 more than an aggregate amount of \$250 in qualified small donor con-
28 tributions and nonmatching small donor contributions from a single
29 donor per election cycle.

30 “(d) Make or accept a loan in an aggregate amount of more than

1 **\$250 to the candidate’s campaign.**

2 **“(6) A candidate who participates in the Small Donor Elections**
3 **Program and receives a contribution that exceeds the amount that**
4 **would constitute a qualified small donor contribution or a nonmatch-**
5 **ing small donor contribution shall within two weeks:**

6 **“(a) Return to the person making the contribution the amount**
7 **contributed that is in excess of the statutory limits; or**

8 **“(b) Withdraw from the program and return to the Secretary of**
9 **State for deposit into the Small Donor Elections Fund the total**
10 **amount of public moneys distributed to the candidate under subsection**
11 **(2) of this section or section 4 of this 2021 Act, plus interest.**

12 **“(7)(a) No later than 45 days after each general election, a candidate**
13 **who participates in the Small Donor Elections Program shall return**
14 **to the Secretary of State for deposit into the Small Donor Elections**
15 **Fund any unspent public moneys that were provided to the candidate**
16 **under subsection (2) of this section or section 4 of this 2021 Act.**

17 **“(b) In order to ensure the return of unspent public moneys that**
18 **are required to be returned under this subsection, the candidate shall:**

19 **“(A) Keep detailed records establishing the total amount of moneys**
20 **from the Small Donor Elections Fund and the total amount of moneys**
21 **from other sources that compose the total amount of moneys depos-**
22 **ited into the campaign bank account of the candidate; and**

23 **“(B) After campaign expenses are paid, return a percentage of the**
24 **total amount of moneys remaining in the account that is equal to the**
25 **percentage of the total amount of moneys deposited into the account**
26 **that came from the Small Donor Elections Fund.**

27 **“(8) Except as otherwise provided in section 2 (2) of this 2021 Act,**
28 **a candidate who participates in the Small Donor Elections Program**
29 **may receive up to 50 percent of the maximum public match during the**
30 **primary election.**

1 **“SECTION 4. The Secretary of State by rule shall establish a pro-**
2 **cess for distributing moneys from the Small Donor Elections Fund to**
3 **candidates who have met all of the requirements set forth in section**
4 **3 (1) of this 2021 Act for participation in the Small Donor Elections**
5 **Program. As part of this process:**

6 **“(1) The Secretary of State shall certify that a candidate has com-**
7 **pleted each requirement set forth in section 3 (1) of this 2021 Act.**

8 **“(2) Except as provided in section 3 (2) of this 2021 Act, upon pro-**
9 **viding certification under subsection (1) of this section, the Secretary**
10 **of State shall provide moneys from the Small Donor Elections Fund**
11 **to the candidate in an amount equal to \$6 for every \$1 in qualified**
12 **small donor contributions received from an in-state individual, pro-**
13 **vided that the amount received by the candidate does not exceed the**
14 **maximum public match.**

15 **“(3) Following an initial distribution made under subsection (2) of**
16 **this section, the candidate may file with the Secretary of State addi-**
17 **tional contribution statements seeking moneys from the Small Donor**
18 **Elections Fund. Except as provided in subsection (4) of this section,**
19 **additional contribution statements:**

20 **“(a) May be filed only after the candidate has received qualified**
21 **small donor contributions of at least \$1,500 since the candidate last**
22 **filed a statement.**

23 **“(b) May not be filed more than one time per week.**

24 **“(4) During the 30 days immediately preceding the general election,**
25 **a candidate may file additional contribution statements seeking mon-**
26 **eys from the Small Donor Elections Fund without receiving qualified**
27 **small donor contributions of at least \$1,500.**

28 **“SECTION 5. (1) A candidate participating in the Small Donor**
29 **Elections Program who knowingly falsifies campaign records or who**
30 **knowingly violates any provision of sections 2 to 7 of this 2021 Act:**

1 “(a) May no longer participate in the program;

2 “(b) Shall be required to return to the Secretary of State for deposit
3 into the Small Donor Elections Fund the total amount of public mon-
4 eys distributed to the candidate under sections 3 (2) and 4 of this 2021
5 Act, plus interest;

6 “(c) Is personally liable for the return of any public moneys that
7 have already been expended; and

8 “(d) Is subject to criminal liability under ORS 260.993 (2) and civil
9 liability under ORS 260.995 (2)(c) for a violation of ORS 260.715 (1).

10 “(2) The Secretary of State by rule shall conduct reasonable audits
11 of participants in the Small Donor Elections Program to ensure the
12 integrity of the program.

13 “(3) A candidate may use the appeal mechanism established in ORS
14 246.910 to challenge any decision of the Secretary of State relating to
15 the candidate’s ability to participate in the Small Donor Elections
16 Program.

17 “(4) A candidate participating in the Small Donor Elections Pro-
18 gram may at any time voluntarily withdraw from the program by re-
19 turning to the Secretary of State for deposit into the Small Donor
20 Elections Fund 100 percent of the total amount of public moneys dis-
21 tributed to the candidate under sections 3 (2) and 4 of this 2021 Act,
22 plus interest.

23 “SECTION 6. (1) The Small Donor Elections Fund is established in
24 the State Treasury, separate and distinct from the General Fund. In-
25 terest earned by the Small Donor Elections Fund shall be credited to
26 the fund. All moneys in the fund are continuously appropriated to the
27 Secretary of State for the purpose of administering sections 2 to 7 of
28 this 2021 Act.

29 “(2) The fund consists of moneys appropriated to the fund by the
30 Legislative Assembly, moneys returned to the fund by candidates who

1 participate in the Small Donor Elections Program in the manner set
2 forth in sections 2 to 7 of this 2021 Act and moneys paid into the fund
3 under ORS 260.995. The Secretary of State may accept grants, do-
4 nations, contributions or gifts from any source for deposit in the fund.

5 **“SECTION 7. (1) The maximum public match described in section**
6 **2 (2) of this 2021 Act for the period beginning on the day after the 2022**
7 **general election and ending on the date of the 2024 general election**
8 **shall be:**

9 **“(a) \$600,000 for candidates for the office of state Senator; and**

10 **“(b) \$400,000 for candidates for the office of state Representative.**

11 **“(2) Prior to the start of each election cycle, the Secretary of State**
12 **shall adjust the dollar amounts set forth in this section by the cumu-**
13 **lative change in the Consumer Price Index for All Urban Consumers,**
14 **West Region (All Items), as published by the Bureau of Labor Statis-**
15 **tics of the United States Department of Labor, or its successor, since**
16 **the previous election cycle. The adjustments performed under this**
17 **subsection shall be rounded to the nearest \$10 increment.**

18 **“SECTION 8. (1) A resident individual taxpayer who files a full-year**
19 **Oregon individual income tax return may designate that a contribu-**
20 **tion be made to the Small Donor Elections Fund established in section**
21 **6 of this 2021 Act. The resident individual taxpayer shall make the**
22 **designation by marking the box or filling in the space provided on the**
23 **return form pursuant to subsection (2) of this section. The amount**
24 **designated shall be subtracted from any refund due on the return.**

25 **“(2)(a) The Department of Revenue shall provide, on the face of the**
26 **full-year Oregon individual income tax return form, a place for resi-**
27 **dent individual taxpayers to contribute to the Small Donor Elections**
28 **Fund. The department is not required to add a line to a particular**
29 **form if this addition would require the addition of a page to the return**
30 **form.**

1 **“(b) The area on the return form for making the designation shall**
2 **provide for:**

3 **“(A) A checkoff box of \$5, \$10, \$20 or \$50; and**

4 **“(B) A blank line in which the individual may write in an amount**
5 **other than an amount designated under subparagraph (A) of this par-**
6 **agraph.**

7 **“(c) The instructions for the return form shall adequately explain**
8 **that any amount designated shall be paid to the Small Donor Elections**
9 **Fund, that the amount designated will decrease the refund of the**
10 **taxpayer by the designated amount and that the designation is entirely**
11 **voluntary.**

12 **“(3) If a taxpayer designates both a contribution to the Small Donor**
13 **Elections Fund under this section and a contribution pursuant to ORS**
14 **305.745, and the refund due the taxpayer is insufficient to satisfy the**
15 **designated contribution under ORS 305.745, the designation under this**
16 **section is void and no contribution to the Small Donor Elections Fund**
17 **is made.**

18 **“SECTION 9.** ORS 305.754 is amended to read:

19 **“305.754. (1) A resident individual taxpayer who files a full-year Oregon**
20 **individual income tax return may designate that a contribution be made to**
21 **the Oregon Political Party Fund for payment to the major or minor political**
22 **party designated. The resident individual taxpayer shall make the desig-**
23 **nation by entering a code denoting the party and marking the box provided**
24 **on the return form pursuant to subsection (2) of this section. The amount**
25 **designated shall be subtracted from any refund due on the return.**

26 **“(2)(a) The Department of Revenue shall provide, on the face of the full-**
27 **year Oregon individual income tax return form, a place for resident individ-**
28 **ual taxpayers to make the designation of a political party provided by this**
29 **section. The department is not required to add a line to a particular form if**
30 **this addition would require addition of a page to the return form. All major**

1 political parties, as described in ORS 248.006, and all minor political parties,
2 as described in ORS 248.008, shall be listed, with identifying codes, in the
3 instructions to the individual income tax return.

4 “(b) The area on the return form for making the designation shall provide
5 for a checkoff box of \$3. The instructions shall adequately explain that any
6 amount designated shall be paid to the political party of the taxpayer’s
7 choice, that the amount designated will decrease the refund of the taxpayer
8 by the designated amount, and that the designation is entirely voluntary.

9 “(3) If a taxpayer filing a full-year Oregon individual income tax return
10 designates more than one political party to receive the contribution, the
11 designation is void and no contribution is made.

12 “(4) If a joint return is filed and only one political party is designated,
13 that political party shall receive a contribution in the total amount desig-
14 nated. If two political parties are designated on a joint return, each political
15 party shall receive a contribution in the amount designated by each joint
16 filer. If more than two parties are designated, the designations are void and
17 no contribution is made.

18 “(5) If an organization that is not a major or minor political party is
19 designated under this section, the designation is void and no contribution is
20 made.

21 “(6) If a designation is void under subsection (3), (4) or (5) of this section,
22 the department shall adjust the return to reflect the amount designated for
23 contribution under this section.

24 “(7) If a taxpayer designates both a contribution to a political party under
25 this section and a contribution pursuant to **either** ORS 305.745 **or section**
26 **8 of this 2021 Act**, and the refund due the taxpayer is insufficient to satisfy
27 the designated contribution under ORS 305.745 **or section 8 of this 2021**
28 **Act**, the designation under this section is void and no contribution to a
29 political party is made.

30 **SECTION 10.** ORS 305.796, as amended by section 2, chapter 316, Oregon

1 Laws 2019, is amended to read:

2 “305.796. (1) The Department of Revenue shall provide a means by which
3 personal income taxpayers may elect to establish an account under ORS
4 178.335 within the Oregon 529 Savings Network in the name of a designated
5 beneficiary.

6 “(2) A taxpayer may elect to contribute all or a portion of a refund of
7 personal income tax to an account that has been established under ORS
8 178.335 by direct deposit to the financial institution managing the account.
9 The amount elected to be contributed by the taxpayer must be at least \$25
10 and may be applied as a contribution only for the tax year in which the re-
11 fund is issued.

12 “(3) The election to contribute all or a portion of a refund shall be made
13 on a form prescribed by the department and filed with the taxpayer’s tax
14 return for the tax year or at such other time and in such other manner as
15 the department may prescribe by rule. The department shall prescribe by rule
16 the maximum number of accounts to which a taxpayer may elect to contrib-
17 ute a portion of the refund.

18 “(4) The election to contribute all or a portion of a refund may not be
19 changed or revoked.

20 “(5) The election to contribute all or a portion of a refund shall be void,
21 and no portion of the refund may be contributed to an account that has been
22 established under ORS 178.335, if:

23 “(a) The taxpayer’s refund is offset to pay amounts owed by the taxpayer;
24 or

25 “(b) The taxpayer’s refund is less than the total of the following:

26 “(A) The contribution elected in subsection (2) of this section;

27 “(B) Payments of tax as provided in ORS 316.583 that accompany the re-
28 turn;

29 “(C) All contributions to charitable and governmental entities designated
30 by means of a checkoff as provided in ORS 305.745; *[and]*

1 “(D) All contributions to political parties designated by means of a
2 checkoff as provided in ORS 305.754[.]; **and**

3 “(E) **All contributions to the Small Donor Elections Fund as pro-**
4 **vided in section 8 of this 2021 Act.**

5 “**SECTION 11.** ORS 260.266 is amended to read:

6 “260.266. (1) Except as otherwise provided by a local provision, a com-
7 munication in support of or in opposition to a clearly identified candidate
8 must state the name of the persons that paid for the communication.

9 “(2) For the purpose of complying with subsection (1) of this section:

10 “(a) Except as provided in paragraph (b) of this subsection, a communi-
11 cation in support of or in opposition to a clearly identified candidate by a
12 political committee or petition committee must state:

13 “(A) The name of the **principal campaign committee**, political com-
14 mittee or petition committee; and

15 “(B) The names of the five persons that have made the largest aggregate
16 contributions of \$10,000 or more to the committee in the election cycle in
17 which the communication is made.

18 “(b) A communication in support of or in opposition to a clearly identified
19 candidate by an individual[,] **or** a for-profit business entity [*or a candidate*
20 *or the principal campaign committee of a candidate*] must state the name of
21 the individual[,] **or** for-profit business entity [*or candidate*].

22 “(c)(A) A communication in support of or in opposition to a clearly
23 identified candidate by a person not described in paragraph (a) or (b) of this
24 subsection must state:

25 “(i) The name of the person; and

26 “(ii) Except as provided in subparagraph (B) of this paragraph, the names
27 of the five persons that have made the largest aggregate donations of \$10,000
28 or more to the person in the election cycle in which the communication is
29 made.

30 “(B) In identifying persons that have made aggregate donations of \$10,000

1 or more, a person described in this paragraph may exclude:

2 “(i) Donations received from an affiliated charitable organization that is
3 tax exempt under section 501(c)(3) of the Internal Revenue Code; and

4 “(ii) Donations and grants received from foundations and other persons
5 that may not be used to make a communication in support of or in opposition
6 to a clearly identified candidate.

7 “(d) Notwithstanding paragraphs (a) to (c) of this subsection, a digital
8 communication may state only the name of the person that made the com-
9 munication if the digital communication includes an active link to a website
10 that prominently displays the additional information required by this sub-
11 section.

12 “(3) A person that makes communications in support of or in opposition
13 to a clearly identified candidate must consider an anonymous donation of
14 \$1,000 or more from a single person to be a donation that may not be used
15 to make a communication in support of or in opposition to a clearly identi-
16 fied candidate.

17 “(4)(a) If a person is required to disclose the names of five persons under
18 subsection (2)(a)(B) or (c)(A)(ii) of this section and more than five persons
19 qualify as having made the largest aggregate contributions or donations, the
20 person shall disclose the five applicable persons whose contributions or do-
21 nations were made closest to the date of initial printing or transmission of
22 the communication.

23 “(b) Except as provided in paragraph (c) of this subsection, the five per-
24 sons required to be named under subsection (2)(a)(B) or (c)(A)(ii) of this
25 section must be accurate as of 10 days before the most recent payment to
26 print or transmit the communication.

27 “(c) A person that both makes multiple digital communications in support
28 of or in opposition to a clearly identified candidate and uses the method
29 described in subsection (2)(d) of this section to meet the identification re-
30 quirements of subsection (2)(a)(B) or (c)(A)(ii) of this section, may use one

1 active link to the same website for all digital communications made by the
2 person, provided that the information on the website is accurate as of 10
3 days before the most recent payment to print or transmit a communication.

4 “(5) This section does not apply to:

5 “(a) Candidates for federal office.

6 “(b) Candidates other than those described in paragraph (a) of this sub-
7 section who are not required to use the electronic filing system adopted un-
8 der ORS 260.057 to file statements of contributions received or expenditures
9 made.

10 “(c) Petition committees that are not required to use the electronic filing
11 system adopted under ORS 260.057 to file statements of contributions re-
12 ceived or expenditures made.

13 “(d) Political committees that are not required to use the electronic filing
14 system adopted under ORS 260.057 to file statements of contributions re-
15 ceived or expenditures made.

16 “(e) A person that makes independent expenditures and that is exempt
17 under ORS 260.044 from being required to file statements of independent ex-
18 penditures using the electronic filing system adopted under ORS 260.057.

19 “(f) A communication that is excluded from the definition of
20 ‘expenditure’ under ORS 260.007.

21 “(g) Items of de minimis value relating to a candidate, including but not
22 limited to:

23 “(A) Lawn signs, pins, pens and other similar items;

24 “(B) Skywriting; or

25 “(C) Wearable merchandise.

26 “(h) Any other item that the Secretary of State by rule determines is too
27 small to feasibly include the identifying information required by this section.

28 “(6) The Secretary of State by rule shall prescribe the form of statements
29 required on communications described in this section. Rules adopted under
30 this subsection must ensure that the information required to be included in

1 communications under this section is:

2 “(a) In a font, size and color that are easy for an average person to read,
3 if the communication appears in a print or digital format; and

4 “(b) Clearly audible to the average person, if the communication appears
5 in an audio format.

6 “(7) As used in this section:

7 “(a) ‘Clearly identified’ has the meaning given that term in ORS 260.005
8 (10)(b).

9 “(b)(A) Except as provided in subparagraph (B) of this paragraph, ‘com-
10 munication in support of or in opposition to a clearly identified candidate’
11 means:

12 “(i)(I) The communication, when taken as a whole and with limited ref-
13 erence to external events, such as the proximity to the election, could only
14 be interpreted by a reasonable person as containing advocacy for the election
15 or defeat of a clearly identified candidate for nomination or election to
16 public office; and

17 “(II) The electoral portion of the communication is unmistakable, unam-
18 biguous and suggestive of only one meaning; or

19 “(ii)(I) The communication involves aggregate expenditures by a person
20 of more than the amount provided in ORS 260.044 (1);

21 “(II) The communication refers to a clearly identified candidate who will
22 appear on the ballot; and

23 “(III) The communication is printed or transmitted to the relevant
24 electorate within the time frame provided in ORS 260.005 (10)(c)(B)(iii).

25 “(B)(i) ‘Communication in support of or in opposition to a clearly identi-
26 fied candidate’ includes but is not limited to communications distributed via
27 print, telephone, radio, television or the Internet.

28 “(ii) ‘Communication in support of or in opposition to a clearly identified
29 candidate’ does not include newspaper editorials, printed advertisements with
30 a fair market value of less than \$500 or communications made via telephone

1 that have a fair market value of less than \$500.

2 “(c)(A) ‘Donation’ means the gift or transfer of moneys or any other item
3 of value to a person subject to subsection (2)(c)(A) of this section, including
4 any membership fees, dues or assessments.

5 “(B) ‘Donation’ does not include moneys or any other item of value re-
6 ceived by a person subject to subsection (2)(c)(A) of this section in the or-
7 dinary course of a trade or business conducted by the person.

8 “(d) ‘Election cycle’ means the period of time starting on the day after
9 the date of a general election and ending on the date of the next general
10 election.

11 “(e) ‘Local provision’ means a charter provision, ordinance, resolution or
12 other provision adopted by a city, county or other local government.

13 **“SECTION 12.** ORS 260.995, as amended by section 3, chapter 636, Oregon
14 Laws 2019, is amended to read:

15 “260.995. (1) Except as provided in subsection (2) of this section, following
16 an investigation under ORS 260.345, the Secretary of State or Attorney
17 General may impose a civil penalty not to exceed \$1,000 for each violation
18 of any provision of Oregon Revised Statutes relating to the conduct of any
19 election, any rule adopted by the secretary under ORS chapters 246 to 260
20 or any other matter preliminary to or relating to an election, for which a
21 civil penalty is not otherwise provided.

22 “(2) The secretary or the Attorney General may impose a civil penalty
23 not to exceed:

24 “(a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000
25 plus the amount converted to personal use for each violation of ORS 260.407;

26 “(B) Two times the amount of the penalty provision for violating a
27 nondisclosure agreement that is contained within each nondisclosure agree-
28 ment entered into in violation of ORS 260.407 or 260.413;

29 “(b) 150 percent of the total cost of printing, transmitting or distributing
30 a communication in support of or in opposition to a clearly identified can-

1 didate if the disclosure requirements set forth in ORS 260.266 are not met;
2 or

3 “(c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1)
4 or 260.715 (1) or [*section 1b*,] Article IV, **section 1b**, of the Oregon Consti-
5 tution.

6 “(3) Except as otherwise provided by this section, civil penalties under
7 this section shall be imposed as provided in ORS 183.745. In addition to the
8 requirements of ORS 183.745, the notice shall include:

9 “(a) A statement of the authority and jurisdiction under which the hear-
10 ing is to be held; and

11 “(b) If the person is an agency, corporation or an unincorporated associ-
12 ation, a statement that such person must be represented by an attorney li-
13 censed in Oregon, unless the person is a political committee which may be
14 represented by any officer identified in the most recent statement of organ-
15 ization filed with the filing officer.

16 “(4) A hearing on whether to impose a civil penalty and to consider cir-
17 cumstances in mitigation shall be held by the secretary or Attorney General:

18 “(a) Upon request of the person against whom the penalty may be as-
19 sessed, if the request is made not later than the 20th day after the date the
20 person received notice sent under subsection (3) of this section; or

21 “(b) Upon the secretary’s or Attorney General’s own motion.

22 “(5) The person against whom a penalty may be assessed need not appear
23 in person at a hearing held under this section, but instead may submit
24 written testimony or other evidence, sworn to before a notary public, to the
25 secretary or Attorney General for entry in the hearing record. The testimony
26 or other evidence must be received by the secretary or Attorney General not
27 later than three business days before the day of the hearing.

28 “(6) All hearings under this section shall be held not later than 45 days
29 after the deadline for the person against whom the penalty may be assessed
30 to request a hearing. However, if requested by the person against whom the

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

4 “(7) The secretary or Attorney General shall issue an order not later than
5 90 days after a hearing or after the deadline for requesting a hearing if no
6 hearing is held.

7 “(8) All penalties recovered under this section shall be paid into the
8 **Small Donor Elections Fund established in section 6 of this 2021 Act**
9 [*State Treasury and credited to the General Fund*].

10 “(9) In the case of a civil penalty imposed under this section for a vio-
11 lation of ORS 260.407, the person against whom the penalty is assessed:

12 “(a) Is personally responsible for the payment of the civil penalty;

13 “(b) Shall pay the civil penalty from personal funds of the person; and

14 “(c) May not pay the civil penalty from contributions received by a can-
15 didate, a candidate’s principal campaign committee, a political committee or
16 a petition committee.

17 **“SECTION 13. The Secretary of State shall hire a full-time em-
18 ployee to provide voter education, support and outreach regarding
19 Oregon’s campaign finance laws, including the Small Donor Elections
20 Program established in sections 2 to 7 of this 2021 Act.**

21 **“SECTION 14. It is the intent of the Legislative Assembly that all
22 parts of this 2021 Act are independent and that if any part of this 2021
23 Act is held unconstitutional, all remaining parts shall remain in force.**

24 **“SECTION 15. Sections 2 to 7 of this 2021 Act and the amendments
25 to ORS 260.995 by section 12 of this 2021 Act become operative on No-
26 vember 9, 2022.**

27 **“SECTION 16. (1) The Secretary of State may take any action before
28 the operative date specified in section 15 of this 2021 Act that is nec-
29 essary for the Secretary of State to exercise, on and after the operative
30 date specified in section 15 of this 2021 Act, all of the duties, functions**

1 and powers conferred on the Secretary of State by sections 2 to 7 of
2 this 2021 Act and the amendments to ORS 260.995 by section 12 of this
3 2021 Act.

4 “(2) No later than January 1, 2022, the Secretary of State shall
5 propose rules necessary to implement sections 2 to 7 of this 2021 Act
6 and the amendments to ORS 260.995 by section 12 of this 2021 Act.

7 “(3) No later than September 1, 2022, the Secretary of State shall
8 propose revisions to the manual on campaign finance that is adopted
9 by administrative rule and made publicly available on the secretary’s
10 website to ensure that it incorporates and describes the contents of
11 this 2021 Act in a clear and straightforward manner.

12 “(4) No later than September 30, 2022, the Secretary of State shall
13 report to the interim committees of the Legislative Assembly respon-
14 sible for campaign finance on the actions taken by the secretary to
15 implement the provisions of this 2021 Act.

16 “SECTION 17. This 2021 Act being necessary for the immediate
17 preservation of the public peace, health and safety, an emergency is
18 declared to exist, and this 2021 Act takes effect on its passage.”.

19
