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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

FRED VANNATTA AND CENTER TO
PROTECT FREE SPEECH, INC., an Oregon
Not-For-Profit Corporation,

Plaintiffs,

v.

OREGON GOVERNMENT ETHICS
COMMISSION, formerly known as the Oregon
Government Standards and Practices
Commission, and STATE OF OREGON,

Defendants.

Case No. 07C-20464

**AMENDED COMPLAINT
(Declaratory Judgment; Injunction;
Attorney Fees)**

For their complaint, plaintiffs allege:

DECLARATORY RELIEF

1.

The Center to Protect Free Speech, Inc. (“Center”), is an Oregon not-for-profit corporation, exempt from taxation under section 501(c)(4) of the Internal Revenue Code. The Center is dedicated to protecting rights guaranteed by the state and federal constitutions, including the rights to speak freely on any subject whatever, to instruct representatives, and to apply to the Legislative Assembly for redress of grievances. Fred VanNatta (“VanNatta”) is an elector and taxpayer and the president of the Center. VanNatta exercises the constitutional rights

1 to speak freely on any subject whatever, to instruct representatives, and to apply to the
2 Legislative Assembly for redress of grievances.

3 2.

4 The State of Oregon has adopted a Code of Ethics in ORS Ch. 244. The Oregon
5 Government Ethics Commission (“Commission”) is the agency of the State of Oregon charged
6 by law with implementing and enforcing the Code of Ethics for public officials, including ORS
7 chapter 244 as amended by 2007 SB 10, Ch. 877 Or. Laws 2007. It was formerly known as the
8 Oregon Government Standards and Practices Commission. A copy of Enrolled SB 10, which the
9 Commission is charged with enforcing, is attached hereto as Exhibit 1.

10 3.

11 VanNatta has registered to lobby on behalf of the Center to, among other things,
12 request a repeal during the Special Legislative Session scheduled in February 2008 of many of
13 the provisions of SB 10 which this action addresses. A copy of VanNatta’s lobby registration is
14 attached as Exhibit 2. To further that goal, the Center and VanNatta plan to engage in conduct
15 that would be prohibited and penalized if the Commission were to implement and enforce the
16 code of ethics as amended by 2007 SB 10. VanNatta is also registered to lobby on behalf of the
17 Roman V Ranch, LLC and other clients. He is the Managing Member of the Roman V Ranch,
18 LLC which owns small woodlands. The Legislative Assembly has and is expected to consider
19 legislative proposals which will impact the economic interests of small woodland owners
20 including VanNatta and Roman V Ranch, LLC. Conduct in which VanNatta would engage
21 includes obtaining the good will of public officials and candidates for public office through
22 offering and providing public officials, their families and candidates for public office
23 entertainment, business meals with an aggregate value of more than \$50 in a calendar year in
24 connection with their discussions, and honorariums in connection with official duties. This
25 conduct would also be penalized if the Commission were to implement and enforce the Code of
26 Ethics as amended by 2007 SB 10.

1 4.

2 Sections 18(1), (2), and (3) of 2007 SB 10, which prohibit a person with a
3 legislative or administrative interest from offering or giving such gifts with an aggregate value of
4 more than \$50 in a calendar year to a public official or candidate for public office, violate:

5 i. Article I, section 8 of the Oregon Constitution, because sections 18(1), (2),
6 and (3) restrict the right to speak freely on any subject whatever; and even if a restriction were
7 permissible, in combination with the definition of “gift” in ORS 244.020, the sections are so
8 vague and overbroad that sections 18(1), (2), and (3) unconstitutionally burden permissible
9 speech.

10 ii. Article I, section 26 of the Oregon Constitution, because sections 18(1),
11 (2), and (3) restrain inhabitants from instructing their representatives and from applying to the
12 Legislative Assembly for redress of grievances.

13 iii. Article I, section 20 of the Oregon Constitution, because sections 18(1),
14 (2), and (3) base the rights to speak freely on any subject whatever, to instruct representatives,
15 and to apply to the Legislative Assembly for redress of grievances upon (a) whether the person
16 lacks a legislative or administrative interest; and (b) whether, under ORS 244.020(5)(b)(F), the
17 person is a government, an organization of which a public body is a dues-paying member, or a
18 not-for-profit corporation that is tax exempt under section 501(c)(3) of the of the Internal
19 Revenue Code and receives less than five percent of its funding from for-profit organizations or
20 entities.

21 5.

22 Section 18 (4) of 2007 SB 10, which prohibits a person with a legislative or
23 administrative interest from offering or giving gifts of entertainment to a public official or
24 candidate for public office, violates:

25 i. Article I, section 8 of the Oregon Constitution because section 18(4)
26 restricts the right to speak freely on any subject whatever; and even if a restriction were

1 permissible, in combination with the definition of “gift” in ORS 244.020 and the lack of
2 definition of “entertainment,” the section is so vague and overbroad that section 18(4)
3 unconstitutionally burdens permissible speech.

4 ii. Article I, section 26 of the Oregon Constitution because section 18(4)
5 restrains inhabitants from instructing their representatives and from applying to the Legislative
6 Assembly for redress of grievances.

7 iii. Article I, section 20 of the Oregon Constitution, because section 18(4)
8 bases the rights to speak freely on any subject whatever, to instruct representatives, and to apply
9 to the Legislative Assembly for redress of grievances based upon (a) whether the person lacks a
10 legislative or administrative interest; and (b) under ORS 244.020(5)(b)(F), whether the person is
11 a government, an organization of which a public body is a dues-paying member, or a not-for-
12 profit corporation that is tax exempt under section 501(c)(3) of the of the Internal Revenue Code
13 and receives less than five percent of its funding from for-profit organizations or entities.

14 6.

15 Sections 24(1) and (2) of 2007 SB 10, which prohibit a person from providing an
16 honorarium to a public official or candidate for public office in connection with official duties,
17 violate:

18 i. Article I, section 8 of the Oregon Constitution, because sections 24(1) and
19 (2) restrict the right to speak freely on any subject whatever.

20 ii. Article I, section 26 of the Oregon Constitution, because sections 24(1)
21 and (2) restrain inhabitants from instructing their representatives and from applying to the
22 Legislative Assembly for redress of grievances.

23 7.

24 Defendants deny the Center’s and VanNatta’s above-stated contentions.
25 Defendants intend to enforce the above-referenced provisions of SB 10 on their respective
26 operative dates.

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8.

Pursuant to ORS 28.020, *et seq.*, plaintiffs are entitled to declaratory relief as provided in paragraphs 4, 5 and 6 herein.

9.

The Center and VanNatta have no plain, speedy, and adequate remedy in the ordinary course of the law and an injunction is therefore necessary to preserve their right to speak freely and to avoid irreparable harm.

INJUNCTION

10.

Plaintiffs reallege those allegations in paragraphs 1 through 9.

11.

The Center and VanNatta are entitled to an injunction permanently enjoining defendants from enforcing the above-referenced provisions as of their respective operating dates.

ATTORNEY'S FEES

12.

Plaintiffs reallege those allegations in paragraphs 1 through 11.

13.

Since at least 2000, the Office of Legislative Counsel has advised the Legislative Assembly that the Oregon Constitution prohibits the Legislative Assembly from adopting laws that limit the gifts that persons may give to members of the Legislative Assembly. A copy of one such opinion of the Office of Legislative Counsel dated March 10, 2000 is attached hereto as Ex. 3.

14.

The Center and VanNatta are entitled to recover their reasonable attorney fees from defendants because the Center and VanNatta are seeking to vindicate important constitutional rights applying to all citizens and not to vindicating individualized and different

1 interests or any pecuniary or other special interest of their own aside from that shared with the
2 public at large and because the above-referenced restraints on speech have been enacted despite
3 the advice of the Legislature's official legal advisors.

4 **WHEREFORE**, the Center and VanNatta demand judgment as follows:

5 1. Declaring that sections 18(1), (2), (3), and (4) and 24(1) and (2) of 2007 SB 10
6 are void and unenforceable because in violation of the Oregon Constitution;

7 2. Permanently enjoining enforcement of the above-referenced sections of Enrolled
8 SB 10;

9 3. Awarding the Center and VanNatta their reasonable attorney fees and costs and
10 disbursements incurred herein.

11 4. For such other and further relief as the court deems just and equitable.

12 DATED this 22 day of October, 2007.

13 DAVIS WRIGHT TREMAINE LLP

14
15 By 

16 John DiLorenzo, Jr., OSB #80204
17 Gregory A. Chaimov, OSB #822180
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23
24 Attorneys for Plaintiffs Fred VanNatta and Center To
25 Protect Free Speech, Inc.
26

Enrolled
Senate Bill 10

Sponsored by Senators BROWN, COURTNEY, Representative MERKLEY; Senator MORRISETTE
(Presession filed.)

CHAPTER

AN ACT

Relating to government ethics; creating new provisions; amending ORS 171.725, 171.730, 171.735, 171.740, 171.745, 171.750, 171.772, 171.992, 244.020, 244.040, 244.045, 244.050, 244.060, 244.070, 244.100, 244.110, 244.280, 244.290, 244.350, 244.360, 244.390, 260.407, 293.708, 351.067 and 353.270 and sections 5, 14, 15 and 40b, chapter ____, Oregon Laws 2007 (Enrolled House Bill 2595); and declaring an emergency.

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

COMMISSION FUNDING

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 244.

SECTION 2. (1) The Oregon Government Standards and Practices Commission shall estimate in advance the expenses that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785 and 171.992 and this chapter. The commission shall also determine what percentage of the expenses should be borne by the following two groups of public bodies:

- (a) Public bodies in state government; and
- (b) Local governments, local service districts and special government bodies that are subject to the Municipal Audit Law.

(2) The commission shall charge each public body for the public body's share of the expenses described in subsection (1) of this section for the biennium. The amount to be charged each public body shall be determined as follows:

(a) The commission shall determine the rate to be charged public bodies in state government. The same rate shall be applied to each public body described in this paragraph. To determine the amount of the charge for each public body, the commission shall multiply the rate determined under this paragraph by the number of public officials serving the public body.

(b) The commission shall set the charge for local governments, local service districts and special government bodies that are subject to the Municipal Audit Law so that each local government, local service district or special government body described in this paragraph pays an amount of the total expenses for the group that bears the same proportion to the total expenses that the amount charged to the local government, local service district or special government body for the municipal audit fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

EXHIBIT 1
PAGE 1

(3) Each public body shall pay to the credit of the commission the charge described in this section as an administrative expense from funds or appropriations available to the public body in the same manner as other claims against the public body are paid.

(4) All moneys received by the commission under this section shall be credited to the Oregon Government Standards and Practices Commission Account established under ORS 244.345.

(5) The commission shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section:

(a) "Local government" and "local service district" have the meanings given those terms in ORS 174.116.

(b) "Public body" has the meaning given that term in ORS 174.109.

(c) "Public official," notwithstanding ORS 244.020 (13), means any person who, on the date the commission charges the public body under this section, is serving the public body as an officer or employee.

(d) "Special government body" has the meaning given that term in ORS 174.117.

(e) "State government" has the meaning given that term in ORS 174.111.

SECTION 3. The Oregon Government Standards and Practices Commission shall first impose charges under section 2 of this 2007 Act for the biennium beginning July 1, 2009.

REPORTING REQUIREMENTS

SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 171.725 to 171.785.

SECTION 5. Statements required to be filed with the Oregon Government Standards and Practices Commission under ORS 171.745 and 171.750 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31.

SECTION 6. ORS 171.725 is amended to read:

171.725. As used in ORS 171.725 to 171.785, unless the context requires otherwise:

(1) "Compensation" has the meaning given that term in ORS 292.951.

(2) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(3) "Executive agency" means a commission, board, agency or other body in the executive branch of state government that is not part of the legislative or judicial branch.

(4) "Executive official" means any member or member-elect of an executive agency and any member of the staff or an employee of an executive agency. A member of a state board or commission, other than a member who is employed in full-time public service, is not an executive official for purposes of ORS 171.725 to 171.785.

(5) "Judge" means an active judge serving on the Oregon Supreme Court, Court of Appeals, Oregon Tax Court, or an Oregon circuit court.

(6) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any measure, resolution, amendment, nomination, appointment, or report, or any matter that may be the subject of action by either house of the Legislative Assembly, or any committee of the Legislative Assembly, or the approval or veto thereof by the Governor.

(7) "Legislative official" means any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch, and any staff person, assistant or employee thereof.

(8) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of [others] **executive officials or other persons** to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials.

(9) "Lobbyist" means:

(a) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying.

(b) Any person not otherwise subject to paragraph (a) of this subsection who provides personal services as a representative of a corporation, association, organization or other group, for the purpose of lobbying.

(c) Any public official who lobbies.

(10) "Public agency" means a commission, board, agency or other governmental body.

(11) "Public official" means any member or member-elect of any public agency and any member of the staff or an employee of the public agency.

SECTION 6a. ORS 171.730 is amended to read:

171.730. The Legislative Assembly finds that, to preserve and maintain the integrity of the legislative process, persons who engage in efforts to [persuade members of the Legislative Assembly or the executive branch to take specific actions] **influence legislative action**, either by direct communication with [members or employees of the Legislative Assembly or the executive branch] **legislative officials** or by solicitation of [others] **executive officials or other persons** to engage in those efforts, should regularly report their efforts to the public.

SECTION 6b. ORS 171.735 is amended to read:

171.735. ORS 171.740 and 171.745 do not apply to the following persons:

(1) News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge legislative action but that engage in no other activities in connection with the legislative action.

(2) Any legislative official acting in an official capacity.

(3) Any individual who [receives no] **does not receive** compensation or reimbursement of expenses for lobbying, who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies.

(4) A person who [spends not] **does not spend** more than an **aggregate amount** of 24 hours during any calendar quarter lobbying and who does not spend an **aggregate amount** in excess of \$100 lobbying during any calendar quarter.

(5) The Governor, [Executive Assistant to] **chief of staff for the Governor**, [Legal Counsel] **deputy chief of staff for the Governor, legal counsel to the Governor, deputy legal counsel to the Governor**, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State Treasurer, Chief Deputy State Treasurer appointed pursuant to ORS 178.060, **chief of staff for the office of the State Treasurer**, Attorney General, Deputy Attorney General appointed pursuant to ORS 180.130, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **members and staff of the Oregon Law Commission who conduct the law revision program of the commission or [and] any judge.**

SECTION 6c. ORS 171.740 is amended to read:

171.740. (1) Within three [working] **business** days after exceeding the limit of time or expenditure specified in ORS 171.735 (4), a lobbyist shall register with the Oregon Government Standards and Practices Commission by filing with the commission a statement containing the following information:

(a) The name, address and telephone number of the lobbyist.

(b) The name, address and telephone number of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(c) A general description of the trade, business, profession or area of endeavor of any person designated under paragraph (b) of this subsection, and a statement by the person that the lobbyist is officially authorized to lobby for the person.

(d) The name of any member of the Legislative Assembly employed, retained or otherwise compensated by:

(A) The lobbyist designated under paragraph (a) of this subsection; or

(B) A person designated under paragraph (b) of this subsection.

(e) The general subject or subjects of the legislative action of interest to the person for whom the lobbyist is registered.

(2) The designation of official authorization to lobby shall be signed by an official of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(3) **A lobbyist must file a separate registration statement under this section for each person that employs the lobbyist or in whose interest the lobbyist appears or works.** If a lobbyist appears or works for a person for whom the lobbyist has not registered, the lobbyist shall register with the commission *[within three working days of the lobbyist's appearance]* **not later than three business days after the day the lobbyist first appears or works for the person.**

(4) If any of the information submitted by a lobbyist in the statement required under subsection (1) of this section changes, the lobbyist shall revise the statement within 30 days of the change.

(5) A lobbyist registration expires December 31 of an odd-numbered year. If a lobbyist renews the registration before March 31 of the following even-numbered year, the commission shall consider the registration to have been effective as of December 31 of the odd-numbered year on which the registration expired.

(6) For the statement required by this section, an entity comprised of more than one lobbyist may file one statement for the lobbyists *[that]* **who** comprise the entity. The statement the entity files must include the names of the individuals authorized to lobby on behalf of the client listed in the statement.

SECTION 6d. ORS 171.745 is amended to read:

171.745. (1) A lobbyist registered with the Oregon Government Standards and Practices Commission or required to register with the commission shall, *[on January 31 and July 31, of each even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year]* **according to the schedule described in section 5 of this 2007 Act,** file with the commission a statement showing **for the applicable reporting period:**

(a) The total amount of all moneys expended **for food, refreshments and entertainment** by the lobbyist for the purpose of lobbying. *[in the preceding reporting period for:]*

[(A) Food, refreshments and entertainment;]

[(B) Printing, postage and telephone;]

[(C) Advertising, public relations, education and research; and]

[(D) Miscellaneous; and]

[(b) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure in excess of \$25 is made for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.]

(b) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50.

[(2) Beginning on July 1, 1979, the dollar amount specified in subsection (1)(b) of this section shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest dollar.]

[(3)] (2) Statements required by this section need not include amounts expended by the lobbyist for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.

[(4) *Notwithstanding ORS 171.735, 171.740 and subsections (1) to (3) of this section, a registered lobbyist, who engages in lobbying activities without compensation on behalf of an organization is not required to register as a lobbyist for the organization as long as the lobbying activity does not exceed the financial or time limits set in ORS 171.735 (4).*]

[(5)] (3) A statement required by this section shall include a copy of any notice provided to a public official under ORS 244.100 [(3)] (2).

[(6)] (4) For each statement required by this section, an entity comprised of more than one lobbyist may file one statement that reports expenditures by the entity and not by individual lobbyists.

SECTION 7. ORS 171.750 is amended to read:

171.750. (1) Any person on whose behalf a lobbyist was registered, or was required to register, with the Oregon Government Standards and Practices Commission at any time during the [preceding] calendar year[,] shall file with the commission, [by January 31st of each year] **according to the schedule described in section 5 of this 2007 Act**, a statement showing[,] for the [preceding calendar year] **applicable reporting period**:

(a) The total amount of all moneys expended for lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services.

[(b) *The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure in excess of \$25 for the purpose of lobbying is made by the person, but not including information previously reported in compliance with ORS 171.745, and the date, name of payee, purpose and amount of that expenditure.*]

(b) **The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying by the person, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50. This paragraph does not apply to information reported in compliance with ORS 171.745.**

(c) **The name of each registered lobbyist or entity comprised of more than one lobbyist to whom the person paid moneys for lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services, and the total amount of moneys paid to that lobbyist or entity.**

[(2) *Using July 1, 1979, as the base, the dollar amount specified in subsection (1)(b) of this section shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor, or its successor, during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest dollar.*]

[(3)] (2) A statement required under subsection (1) of this section shall include a copy of any notice provided to a public official under ORS 244.100 [(3)] (2).

SECTION 8. ORS 171.772 is amended to read:

171.772. In carrying out the provisions of ORS 171.725 to 171.785, the Oregon Government Standards and Practices Commission shall:

(1) Prescribe forms for registrations, statements and reports required to be filed by ORS 171.725 to 171.785[,] and provide [such] the forms to persons required to register and to file [such] the statements and reports[.].

(2) Accept and file any information voluntarily supplied that exceeds the requirements of ORS 171.725 to 171.785[; and].

(3) Make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(4) **Adopt by rule an electronic filing system under which statements required to be filed under ORS 171.745 and 171.750 may be filed with the commission in an electronic format. The commission may not charge a fee for filing a statement under this subsection. The commission shall accept statements filed under ORS 171.745 and 171.750 in a format that is not electronic.**

(5) **Provide training on procedures for filing statements under subsection (4) of this section.**

(6) **Make statements filed under ORS 171.745 and 171.750, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.**

SECTION 8a. ORS 171.772, as amended by section 8 of this 2007 Act, is amended to read:

171.772. In carrying out the provisions of ORS 171.725 to 171.785, the Oregon Government Standards and Practices Commission shall:

(1) Prescribe forms for registrations, statements and reports required to be filed by ORS 171.725 to 171.785 and provide the forms to persons required to register and to file the statements and reports.

(2) Accept and file any information voluntarily supplied that exceeds the requirements of ORS 171.725 to 171.785.

(3) Make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(4) **Adopt by rule an electronic filing system under which statements required to be filed under ORS 171.745 and 171.750 [may] must be filed with the commission in an electronic format. The commission may not charge a fee for filing a statement under this subsection. [The commission shall accept statements filed under ORS 171.745 and 171.750 in a format that is not electronic.]**

(5) **Provide training on procedures for filing statements under subsection (4) of this section.**

(6) **Make statements filed under ORS 171.745 and 171.750, [including statements that are not filed in an electronic format,] available in a searchable format for review by the public using the Internet.**

SECTION 8b. The amendments to ORS 171.772 by section 8a of this 2007 Act become operative January 1, 2010.

SECTION 9. ORS 244.290 is amended to read:

244.290. (1) The Oregon Government Standards and Practices Commission shall:

[(1)] (a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted [pursuant thereto] **under this chapter.**

[(2)] (b) Prepare, publish and provide a manual setting forth recommended uniform methods of reporting for use by persons filing statements under this chapter or resolution adopted [pursuant thereto] **under this chapter.**

[(3)] (c) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

[(4)] (d) Prepare and publish [such] **any reports [as] the commission [finds] determines are necessary.**

(e) **Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.**

[(5)] (2) **The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:**

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order; *[and]*

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation[.]; and

(e) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act.

(3) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.

(4) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.

SECTION 9a. ORS 244.290, as amended by section 9 of this 2007 Act, is amended to read:

244.290. (1) The Oregon Government Standards and Practices Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted under this chapter.

(b) Prepare, publish and provide a manual setting forth recommended uniform methods of reporting for use by persons filing statements under this chapter or resolution adopted under this chapter.

(c) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(d) Prepare and publish any reports the commission determines are necessary.

(e) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation; and

(e) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act.

(3) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act *[may]* **must** be filed, without a fee, with the commission in an electronic format. *[The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.]*

(4) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act[*including statements that are not filed in an electronic format,*] available in a searchable format for review by the public using the Internet.

SECTION 9b. The amendments to ORS 244.290 by section 9a of this 2007 Act become operative January 1, 2010.

SECTION 9c. If House Bill 2595 becomes law, sections 9 and 9a of this 2007 Act (amending ORS 244.290) and section 9b of this 2007 Act are repealed and ORS 244.290, as amended by section 3, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.290. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act;

[(f)] (g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

[(g)] (h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of "potential conflict of interest" under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate for public office certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.

(6) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.

SECTION 9d. If House Bill 2595 becomes law, ORS 244.290, as amended by section 3, chapter ____, Oregon Laws 2007 (Enrolled House Bill 2595), and section 9c of this 2007 Act, is amended to read:

244.290. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of "potential conflict of interest" under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate for public office certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act [*may*] **must** be filed, without a fee, with the commission in an electronic format. [*The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.*]

(6) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act[, *including statements that are not filed in an electronic format,*] available in a searchable format for review by the public using the Internet.

SECTION 9e. If House Bill 2595 becomes law, the amendments to ORS 244.290 by section 9d of this 2007 Act become operative January 1, 2010.

CIVIL PENALTIES

SECTION 10. ORS 171.992 is amended to read:

171.992. (1) Any person who violates any provision of ORS 171.740 to 171.762, or any rule adopted [*pursuant thereto*] **under ORS 171.725 to 171.785**, shall forfeit and pay to the General Fund **for each violation** a civil penalty [*for each violation*] of not more than [*\$1,000*] **\$5,000**, to be determined by the Oregon Government Standards and Practices Commission.

(2)(a) **The commission may impose civil penalties upon a person who fails to file the statement required under ORS 171.745 or 171.750. In enforcing this subsection, the commission is not required to follow the procedures in ORS 171.778 before finding that a violation of ORS 171.745 or 171.750 has occurred.**

(b) **Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 171.745 or 171.750.**

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

[(2)] (3) [The] A civil penalty [referred to in subsection (1) of] imposed under this section may be recovered in an action brought [thereon] in the name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided in ORS 183.745. In any proceedings before the court, including judicial review under ORS 183.745, the court may review the penalty as to both liability and reasonableness of amount.

(4)(a) Except as provided in paragraph (b) of this subsection, the commission shall report, in the manner described in ORS 192.245, to the Legislative Assembly violations of any provision of ORS 171.740 to 171.762, or any rule adopted under ORS 171.725 to 171.785, for which a penalty is imposed under this section. The report shall include the name of the person against whom the penalty was imposed and describe the nature of the violation.

(b) The commission shall adopt rules specifying conditions under which repeated violations of ORS 171.745 or 171.750 involving a failure to file required statements in a timely fashion are reported to the Legislative Assembly.

(5) In lieu of or in conjunction with finding a violation of law or rule or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.

SECTION 11. ORS 244.350 is amended to read:

244.350. (1) The Oregon Government Standards and Practices Commission or the court under ORS 244.260 (8) may impose civil penalties not to exceed:

(a) Except as provided in paragraph (b) of this subsection, [\$1,000] \$5,000 for [violating] violation of any provision of this chapter or any resolution adopted under this chapter.

(b) \$25,000 for violation of ORS 244.045.

(2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for [violating] violation of any provision of ORS 192.660. [However,]

(b) A civil penalty may not be imposed under this subsection if the violation occurred as a result of the governing body of the public body acting upon the advice of the public body's counsel.

(3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708. A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that may be imposed under subsection (1) of this section.

(4)(a) The commission may impose civil penalties upon a person who fails to file the statement required under ORS 244.050 or 244.100 or section 35 of this 2007 Act. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act.

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

(5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.

[(4)] (6) Any penalty imposed under this section is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law, including removal from office.

SECTION 11a. If House Bill 2595 becomes law, section 11 of this 2007 Act (amending ORS 244.350) is repealed and ORS 244.350, as amended by section 18, chapter ____, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.350. (1) The Oregon Government Ethics Commission may impose civil penalties not to exceed:

(a) Except as provided in paragraph (b) of this subsection, \$5,000 for violation of any provision of this chapter or any resolution adopted under ORS 244.160.

(b) \$25,000 for violation of ORS 244.045.

(2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

(b) A civil penalty may not be imposed under this subsection if the violation occurred as a result of the governing body of the public body acting upon the advice of the public body's counsel.

(3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708. A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that may be imposed under subsection (1) of this section.

(4)(a) The commission may impose civil penalties on a person who fails to file the statement required under ORS 244.050 or 244.100 or section 35 of this 2007 Act. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act.

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

(d) A civil penalty imposed under this subsection is in addition to and not in lieu of sanctions that may be imposed under ORS 244.380.

(5) **In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.**

SECTION 12. ORS 244.360 is amended to read:

244.360. *[The Oregon Government Standards and Practices Commission, in addition to civil penalties prescribed in ORS 244.350, may require any public official who has financially benefited the public official or any other person by violation of any provision of this chapter to forfeit twice the amount that the public official or any other person realized from violating any provision of this chapter.]* **In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Standards and Practices Commission may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation.**

SECTION 12a. If House Bill 2595 becomes law, section 12 of this 2007 Act (amending ORS 244.360) is repealed and ORS 244.360, as amended by section 19, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.360. In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Ethics Commission *[or a court]* may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation.

SECTION 13. ORS 244.050 is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Standards and Practices Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except municipal judges in those cities where a majority of the votes cast in the subject city in the 1974 general election was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session), and except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for an office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the State Board of Higher Education.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive Director of Oregon Government Standards and Practices Commission.

(V) Director of the State Department of Energy.

(W) Director and each assistant director of the Oregon State Lottery.

(h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

(i) Every elected city or county official except elected officials in those cities or counties where a majority of votes cast in the subject city or county in any election on the issue of filing statements of economic interest under this chapter was in opposition.

(j) Every member of a city or county planning, zoning or development commission except such members in those cities or counties where a majority of votes cast in the subject city or county at any election on the issue of filing statements of economic interest under this chapter was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session).

(k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county except such employees in those cities or counties where a majority of votes cast in the subject city or county in an election on the issue of filing statements of economic interest under this chapter was in opposition.

(L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.

(m) Every member of a governing body of a metropolitan service district and the executive officer thereof.

- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
 - (A) Board of Geologic and Mineral Industries.
 - (B) Oregon Economic and Community Development Commission.
 - (C) State Board of Education.
 - (D) Environmental Quality Commission.
 - (E) Fish and Wildlife Commission of the State of Oregon.
 - (F) State Board of Forestry.
 - (G) Oregon Government Standards and Practices Commission.
 - (H) Oregon Health Policy Commission.
 - (I) State Board of Higher Education.
 - (J) Oregon Investment Council.
 - (K) Land Conservation and Development Commission.
 - (L) Oregon Liquor Control Commission.
 - (M) Oregon Short Term Fund Board.
 - (N) State Marine Board.
 - (O) Mass transit district boards.
 - (P) Energy Facility Siting Council.
 - (Q) Board of Commissioners of the Port of Portland.
 - (R) Employment Relations Board.
 - (S) Public Employees Retirement Board.
 - (T) Oregon Racing Commission.
 - (U) Oregon Transportation Commission.
 - (V) Wage and Hour Commission.
 - (W) Water Resources Commission.
 - (X) Workers' Compensation Board.
 - (Y) Oregon Facilities Authority.
 - (Z) Oregon State Lottery Commission.
 - (AA) Pacific Northwest Electric Power and Conservation Planning Council.
 - (BB) Columbia River Gorge Commission.
 - (CC) Oregon Health and Science University Board of Directors.
- (q) The following officers of the State Treasury:
 - (A) Chief Deputy State Treasurer.
 - (B) Executive Assistant to the State Treasurer.
 - (C) Director of the Investment Division.
- (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 and 777.915 to 777.953.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the **Oregon Government Standards and Practices** Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate for [elective] public office described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate for [elective] public office described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for [elective] public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

[(5) *The Legislative Assembly shall maintain a continuing review of the operation of this chapter.*]

[(6)] (5) Subsections (1) to [(5)] (4) of this section apply only to persons who are incumbent, elected or appointed officials as of April 15 and to persons who are candidates for office on April 15. Those [sections] **subsections** also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

[(7)(a)] (6) [*Failure to file the statement required by this section subjects a person to a civil penalty that may be imposed as specified in ORS 183.745, but the enforcement of this subsection does not require the Oregon Government Standards and Practices Commission to follow the procedures in ORS 244.260 before finding that a violation of this section has occurred.*]

[(b) *Failure to file the required statement in timely fashion shall be prima facie evidence of a violation of this section.*]

[(c) *If within five days after the date on which the statement is to be filed under this section the statement has not been received by the commission,*] **If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due**, the commission shall notify the public official **or candidate** and give the public official **or candidate** not less than 15 days to comply with the requirements of this section. If the public official **or candidate** fails to comply by the date set by the commission, the commission may impose a civil penalty [*of \$5 for each day the statement is late beyond the date fixed by the commission. The maximum penalty that may be accrued under this section is \$1,000*] **as provided in ORS 244.350.**

[(d) *A civil penalty imposed under this subsection is in addition to and not in lieu of sanctions that may be imposed under ORS 244.380.*]

SECTION 14. ORS 260.407 is amended to read:

260.407. (1) Except as provided in subsection (2) of this section, amounts received as contributions by a candidate or the principal campaign committee of a candidate for public office that are in excess of any amount necessary to defray campaign expenditures and any other funds donated to a holder of public office may be:

(a) Used to defray any expenses incurred in connection with the recipient's duties as a holder of public office;

(b) Transferred to any national, state or local political committee of any political party;

(c) Contributed to any organization described in section 170(c) of Title 26 of the United States Code or to any charitable corporation defined in ORS 128.620; or

(d) Used for any other lawful purpose.

(2) Notwithstanding subsection (1) of this section, amounts received as contributions by a candidate for public office that are in excess of any amount necessary to defray campaign expenditures and other funds donated to a holder of public office [*shall*] **may not be:**

(a) Converted by any person to any personal use other than to defray any expenses incurred in connection with the person's duties as a holder of public office or to repay to a candidate any loan the proceeds of which were used in connection with the candidate's campaign;

(b) **Except as provided in this paragraph, used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contributions described in this subsection may be used to pay a civil penalty imposed under this chapter, other than a civil penalty imposed for a violation of this section or ORS 260.409; or**

(c) **Except as provided in this paragraph, used to pay any legal expenses incurred by the candidate or public official 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. Contributions described in this subsection may be used to pay legal expenses incurred by the candidate or public official in connection with a legal proceeding brought under this chapter, other than a proceeding brought under this section or ORS 260.409.**

(3) As used in this section:

(a) "Funds donated" means all funds, including but not limited to gifts, loans, advances, credits or deposits of money that are donated for the purpose of supporting the activities of a holder of public office. "Funds donated" does not mean funds appropriated by the Legislative Assembly or another similar public appropriating body or personal funds of the office holder donated to an account containing only those personal funds.

(b) "Public office" does not include national or political party office.

SUBSEQUENT EMPLOYMENT

SECTION 15. ORS 244.045 is amended to read:

244.045. (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly.

SECTION 15a. Section 15b of this 2007 Act is added to and made a part of ORS chapter 244.

SECTION 15b. (1) For purposes of ORS 244.045 (6), if a special session of the Legislative Assembly is held in calendar year 2008 or 2010, the first special session held in that calendar year is considered a regular session of the Legislative Assembly.

(2) This section is repealed January 1, 2011.

GIFTS/FINANCIAL GAIN

SECTION 16. ORS 244.020 is amended to read:

244.020. As used in this chapter, unless the context requires otherwise:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection [(14)] (11) of this section.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(3) "Business with which the person is associated" means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

