

HOUSE COMMITTEE ON ELECTIONS AND RULES
SUBCOMMITTEE ON CAMPAIGN FINANCE REFORM

April 07, 2005 Hearing Room 343

3:30 P.M. Tapes 3 - 7

MEMBERS PRESENT: Rep. Greg Smith, Chair

Rep. Paul Holvey

Rep. Dave Hunt

Rep. Kim Thatcher

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3458 – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 3, A

004	Chair G. Smith	Calls meeting to order at 3:37 p.m. and opens the work session on HB 3458.
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HB 3458 – WORK SESSION

- Chair G. Smith Announces he intends to work in a very bi-partisan manner and invites audience to speak.
- 047 Chair G. Smith States his intention was to have a public hearing but due to an error in communication, the measure is scheduled only for a work session but will provide an opportunity for anyone to speak if they would like to, and ask Ted Reutlinger, Fred Neil and John Lindback to participate in the discussions on HB 3458.
- Cletus Moore Committee Administrator. Reads a summary of HB 3458.
- 060 Rep. Jeff Merkley HD 47 and House Democratic Leader. Comments on bi-partisan approach to working on campaign finance reform. Applauds the way this subcommittee has been put together. States he believes HB 3458 has many significant components related to the integrity of the legislature and the transparency of the political process to the citizens of Oregon. Offers to help in any way he can.
- 078 Rep. Merkley States that all the bills that have been drafted on this issue are in various ways related to campaign finance statements and expenditures and reconciliation between statements and expenditures. An issue that is different in some of the bills with co-sponsors of Democrats and Republicans is that of reviews as called for in HB 3458 and audits as called for in HB 3322 and HB 3298, of which he and Rep. Scott are the chief sponsors. A second issue is that the Senate is immersed in working on the timely disclosures portions; it is very messy, complicated issue. Urges collaboration with the Senate to try to figure out how to solve the problem. Suggest that if timely disclosures slow the remainder of HB 3458 it could be addressed in one of the separate bills on it.
- 094 Chair G. Smith Comments that anything that becomes law is something everyone will have to live with; it will not affect a Republican more than a Democrat or a Democrat more than a Republican.
- Ted Reutlinger Election law drafter in Legislative Counsel's office. Introduces himself and advises that he is prepared to go through HB 3458 section by section.
- John Lindback Director of Elections, Secretary of State's office. Comments that they have a few brief comments on some drafting issues in HB 3458.

	Fred Neil	Campaign Finance Manger, Elections Division, Secretary of State's office. States he is here for technical support.
	Chair G. Smith	Invites comments on how the witnesses would like to proceed in reviewing HB 3458.
116	Lindback	States that most of their comments are related to specific language they think needs clarification in order to aid their enforcement.
	Chair G. Smith	Concludes that the members and witnesses will review HB 3458 section by section and clarify questions during the review.
138	Reutlinger	Explains that HB 3458 is organized to follow the joint press release by Speaker Minnis and House Democratic Leader Jeff Merkley (EXHIBIT A) . The first section of HB 3458 amends the civil penalty section in the election laws to add an enhanced civil penalty of \$750 plus the amount converted to personal use in violation of the law. The current maximum civil penalty is \$250. The bill is drafted so this provision takes effect on passage. At the end of Section 1 it adds language that says if a candidates violates the personal use statute and a civil penalty is imposed against the candidate, the candidate is personally liable to pay that amount out of their own funds. They cannot pay it out of campaign funds.
	Chair G. Smith	Asks what the rationale is for using the word "or" at the end of line 15 on page one.
169	Reutlinger	Explains the "or" is not relevant to what they are trying to accomplish here. States that subsection (1) of the statute sets the general rule of \$250 civil penalty for all election law violations. Then (2) has all the enhanced penalties. States the Secretary of State already has authority to impose a \$1,000 penalty for violations of the two listed statutes. The "or" is only a transition.
	Chair G. Smith	Asks if the committee could set \$1,000 plus the amount converted to personal use for each violation and tie them together.
	Reutlinger	Responds that if the committee wants to change the dollar amount, it would be an easy fix to make.
181	Fred Neal	Comments he thinks the committee is trying to combine the new paragraphs (a) and (b) and come up with the same amount of penalty. States that the 251 provisions are for violation of changing a

statement of endorsement for a Voters' Pamphlet argument, a candidate's statement. There is no amount of money involved; it is simply a civil penalty that is higher than the \$250 generally for an election law violation.

- 216 Reutlinger Explains that Section 3 of the bill responds to item #2 on the Joint Press Release (**EXHIBIT A**). It addresses co-mingling of funds. It requires all Political Action Committees (PACs) and candidates to set up a single account in a financial institution. It requires that the name of the PAC be listed on the name of the records of the financial institutions, requires the person to put all the contributions received into the account; it requires that all expenditures are made from that account; it allows expenditures to be made with a check, debit card, or some other form of electronic transfer; it prohibits a candidate or PAC from putting any private money into the account. The account should contain only contributions that the candidate or PAC has received.
- 231 Rep. Thatcher Comments there is currently a provision that allows for personal loans to be made to the person's PAC for campaign purposes. Asks if that is wiped out by the new language.
- 236 Reutlinger Responds that it would not. It simply would require that when a person makes a loan to his/her campaign, the person deposits that loan into the account and then makes expenditures from the account. This provision for existing PACs, including principle campaign committees, takes effect immediately so anyone who is in the system now would have to establish this account by September 30, 2005.
- 246 Chair G. Smith Ask what the rationale is for the change.
- 248 Reutlinger Responds he believes the rationale is to prevent someone from setting up a financial institution solely for the purpose of accepting campaign money. It is designed to require candidates and PACs to establish accounts in regular banks and credit unions that are accepting deposits and making loans.
- 256 Chair G. Smith Asks if the committee could say "an FDIC account".
- Reutlinger Responds he is not sure if that would prevent the establishment of a financial institution simply to deal with one or more campaign finance accounts.
- 264 Chair G. Smith

		Asks if the language in line 5 on page 3 of HB 3458 would mean that a person could no longer reimburse himself/herself by turning in a receipt.
	Reutlinger	Responds that he would not read the language that way; it would simply say the expenditure would have to be paid from the account.
271	Lindback	Comments that is a problem they have with this section. States that the committee may want to be clear because it looks like it would allow reimbursement for small cash expenditures by a candidate or minor office expenditures. States they talked about a candidate having to use a debit or credit card in a drive through to buy a burger.
284	Rep. Hunt	Asks if ORS 706.008 in line 44 on page 2 includes credit unions and banks.
288	Reutlinger	Responds that he believes it covers banks and credit unions because it is the broadest definition of financial institution.
	Chair G. Smith	Asks what the intent is of the language in line 5 on page 3.
292	Rep. Hunt	Comments that cash reimbursement must be allowed.
	Rep. Thatcher	Agrees.
	Chair G. Smith	Comments there are places in Eastern Oregon that do not accept cards.
305	Rep. Holvey	Asks if there is definition of whose credit card can be used.
	Reutlinger	Responds that it refers to a debit card, which he would assume would be a card that applies to the account. Using your own credit card might be a problem.
	Rep. Hunt	Comments he read it first as being a debit card or another form of an electronic transaction, which could be a credit card. States he has a credit card exclusively for his campaign and it is paid off in full by a check from his campaign. Asks if that would be allowed under this language.

	Reutlinger	Responds he thinks it would if the credit card was tied to the single campaign account. Suggest the committee may want to clarify that.
330	Neal	Comments the controlling language is, “shall be drawn from the campaign account” . They think it would simply be a debit card or a transaction over the web and not a personal credit card by anyone else. It gets to the point of all contributions being deposited in the account. It would be an in-kind contribution for this goods or services purchased. That would not be going into the bank account either so they have a question about what happens to in-kind contributions—whether they are disallowed.
	Chair G, Smith	Comments he is of the opinion that reimbursement must be allowed.
	Rep. Holvey	States he tends to agree with Chair Smith because practically speaking it is almost impossible to write a check for everything you do.
	Rep. Hunt	Comments he thinks reimbursements for credit cards and cash expenditures must be allowed.
347	Rep. Thatcher	Asks if everyone is suggesting the card must have the name of the campaign on it. Comments it seems if you have documentation of an audit trail for review, that is what the goal should be no matter whose name the card was in.
	Rep. Holvey	Asks if the SOS has witnessed problems with personal reimbursement with the use of credit cards in the past.
	Lindback	Responds he does not know if they have witnessed problems where people were doing things wrong but they have a lot of questions about it. It gets scrutinized by people and they care about it and a clear trail would be helpful.
413	Neal	Explains that they read the bill to say all campaign moneys have to go through a dedicated bank account. The language does not accommodate minor cash purchases made by the candidate or incidental office expenses.
	Chair G. Smith	Asks if the language could be something like “all actual and reimbursed expenditures made by the political committee shall be drawn...”.

Neal States that Legislative Counsel can draft whatever the committee wants. Asks that the committee define how much flexibility the committee wants in the dedication of a bank account.

Lindback Encourages a clear trail because when people are scrutinizing candidates' reports and see lots and lots of small expenditures, it raises questions about personal use and they should prove they were actually campaign expenditures.

445 Neal Adds that SOS would recommend or do by administrative rule a mileage log so there is a written paper trail. It is not an out-of-pocket expenditure; it is a per-mile reimbursement to the campaign manager, or the candidate or treasurer. A mileage log is the only way to substantiate it.

456 Chair G. Smith Comments that if rural legislators reimburse themselves for receipts, their campaigns will be paying them a lot more money, and some do not want that.

TAPE 4, A

015 Rep. Hunt Comments he believes Neal was saying in the case where there is mileage reimbursement, there should be a mileage log.

Neal Responds where the report is showing reimbursement, that is the paper trail of expenditures and the reimbursement will come out of the campaign account.

020 Rep. Thatcher Comments that candidates should have dedicated accounts already.

Neal States SOS would like a trail of petty case expenditures but they are used to major campaigns having an office petty cash fund.

026 Chair G. Smith Summarizes the comments: the committee wants a dedicated account and receipts to verify the expenditures made out of the account.

030 Rep. Holvey States he would agree and states he thinks we should make allowance for personal reimbursement for petty expenditures. Questions whether the committee should establish a limit of \$50, \$100 or \$300.

041 Rep. Thatcher

Comments that sometimes the candidate needs to order supplies or order something over the phone and sometimes they will allow a check to be submitted later.

- Rep. Holvey States he doesn't know if it is difficult to get a credit card for a campaign committee, but would like to have campaign credit cards for those sorts of instances where they are purchasing big ticket items.
- 063 Chair G. Smith Comments that perhaps a candidate has poor credit and cannot get a credit card.
- 061 Lindback States that the language specifically mentions debit cards and imagines that most banks issue debit cards with an account that allows a direct draw on the card.
- 070 Rep. Thatcher Asks why we would want to limit them because they still have to write a check out of the committee bank account to pay the bill.
- 083 Neal Interjects that SOS solves that in the reporting scheme by saying the transaction itself is the purchase of goods whether it is by the candidate's credit card or by check from the account, and that is when it is reported. Debit cards are simpler and are only good for the money that is in the account. Candidates and other campaigns have the need to make some expenditures that are not convenient to pay by check. The committee may want to make some accommodation for expenditures made by the candidate and for office expenses. If SOS needs substantiation, the candidate had better have a paper trail.
- Chair G. Smith Summarizes that we need a dedicated account, receipts of all expenditures and deposit slips of all deposits.
- Lindback Asks if the language in Section 3 (4) in lines 10-12 on page 3 means that only the treasurer can make deposits. States that the 10 days conflict with the requirement that campaign accounts be kept up to date within seven days. It would be good to keep the times the same. Also asks if committee would be allowed to receive in-kind contributions since they cannot be deposited. Suggests the committee may want to make some allowance for in-kind contributions.
- 143 Chair G. Smith Comments he is sure there is always a deposit slip behind the deposit so if asked, he could verify where it came from.

- Rep. Holvey Suggests that the words “by the treasurer” in line 11 on page 3 be removed. Ask why the 10 days was changed to seven days.
- 152 Reutlinger Comments that if he were drafting the language again, he would put it as seven days to be consistent with the current requirement that the account be up to date within seven days.
- 155 Chair G. Smith Questions the definition of “received” in (4) line 10, on page 2 of HB 3458.
- 163 Lindback Explains that they have been working on the definition of “received” on the Senate side and other definitions because there is a lack of a bright line. States they would be happy to propose a definition if the committee is interested.
- Rep. Holvey Comments he thought “received” was when he had physical custody of it.
- 170 Chair G. Smith Comments that if he has a check and letter dated a month earlier and it is post-stamped a month earlier, it is incumbent on him to prove that he did not receive it a month earlier.
- Neal Responds that the state has to prove by a preponderance of evidence that there was an omission even in civil enforcement.
- Lindback Comments that SOS receives complaints and they have to explain it and everyone is left scratching their heads and that is why they are trying to address it on the Senate side. States they will be happy to come forward with a proposal.
- 186 Rep. Thatcher Asks why there is a deadline. Questions why anyone would not want to get the money into their account.
- Neal Responds that the provision is a result of Measure 9 on contribution limits, when a candidate could only get \$100 from an individual in a certain amount of time. States they do not think it is relevant now because people want a lot of money and want to be able to spend it.
- Lindback Explains that it comes up when there are suspicions that someone is trying to hide last minute contributions.
- Rep. Thatcher

Comments it sounds like it is subjective and could not be proved. The people who would be above board would be above board and people who would want to hide it still could.

- 205 Neal States SOS would look at when the deposit was actually made by the date on the report.
- 212 Chair G. Smith Comments he does not see the relevance of this issue and asks the committee what they would like to do.
- Thatcher Agrees with Chair G. Smith.
- 218 Rep. Holvey Comments he thinks “receiving the contribution” is when the candidate has physical custody of the contribution.
- Thatcher Asks if the committee wants to keep the deadline.
- Rep. Hunt Responds he was not aware of a seven-day requirement for depositing contributions.
- Neal Comments that the account must be current. As long as the candidate has recorded in his/her books that he/she has received the contribution within seven days of receiving it, he/she is current.
- 242 Chair G. Smith Asks what happens if he receives a check from someone that he did not want to receive it from, and he didn’t want them to give the money back so it could be given to someone else.
- Rep. Hunt Comments there is a law that says the money must be returned within a certain number of days.
- Neal States that it must be returned within seven days or report it as received.
- 253 Rep. Hunt Asks if the money is a contribution if it is not deposited.
- Neal Responds it is under current law. States this would be a new requirement with the new required bank account, that contributions be deposited within 10 or seven days of receiving.

266	Rep. Thatcher	Questions the relevance of depositing the money within seven days.
	Rep. Hunt	Comments that the issue is not a deal-breaker to him.
277	Neal	States that it does provide a paper trail that the deposits are being made. SOS is trying to make sure contributions are reported in a timely fashion and the bank deposit gives the candidate another way of proving that the deposit was made timely.
	Rep. Hunt	Asks if it is a corollary of a receipt for an expenditure.
	Neal	Responds yes, otherwise the only thing the candidate would have that SOS would require is the contribution itself; SOS may want a copy of the back of the check to see when it was endorsed and deposited into a bank.
305	Chair G. Smith	Asks what practice is best to comply with general accounting practices.
308	Lindback	Encourages the committee to change the 10 to seven in line 12 on page 3.
	Chair G. Smith	Asks if "contribution" needs to be changed to "cash contribution" because of the issue of in-kind contributions.
315	Reutlinger	Recommends putting in specific language that says it does not apply to in-kind contributions.
320	Rep. Holvey	Comments that the words "shall be deposited by the treasurer" should be deleted because it limits the candidates getting money to the bank on time.
323	Rep. Thatcher	States she is concerned with Section 3 (5). If a campaign account cannot include private moneys—is concerned that a candidate cannot make a private money loan to the campaign and have that be construed as private money, even though it is reported on the forms as a loan.
337	Neal	States if it is the candidate's loan, it must be deposited. The money would be transferred from the personal account to the dedicated campaign account.

	Reutlinger	States that then it would be a contribution from the candidate to the principle campaign committee, and would therefore be a contribution and not private moneys. Thinks this is aimed at preventing candidates from depositing personal money that they plan to spend on a trip or clothes or something unrelated to the campaign.
	Neal	States that some campaign accounts are the same as the candidate's personal bank account and the candidate is simply reporting campaign-related contributions and expenditures to their filing officer.
	Chair G. Smith	Asks Reutlinger to explain Section 4.
367	Reutlinger	Explains that Section 4 is a technical amendment. Sections 4 and 5 amend statutes that relate to statements of organizations that both candidates and general PACs must file. This bill amends both to require that candidates and general PACs simply list on the statement of organization, the location and name of this dedicated account so the information is on record with the SOS.
	Chair G. Smith	Asks what the purpose of the amendment is.
	Reutlinger	Responds that it would serve an enforcement purpose. It would provide proof that the account has been set up. It would also give the SOS the tool to know where the account is in case they get a complaint or have to do some sort of enforcement activity relating to the account or personal use or some other alleged violation of election law.
379	Rep. Thatcher	Asks if HB 3458 requires the account must be open at all times. Explains that sometimes the candidate can have a measly amount in the account and receive service charges putting the account in the negative unless the account is closed temporarily until the campaign season starts up again.
	Reutlinger	Responds that HB 3458 does require that the account be in existence at all items. If the person ceases to be a candidate and there is no balance, then it is done.
	Neal	Explains that the candidate would discontinue the committee and close the account and open it again when the candidate is ready to crank up.

- Chair G. Smith Comments he assumes that “location” in (d) in line 37 on page 3 means the location of the bank or name of the financial institution.
- 415 Reutlinger Responds that is what he meant when he wrote the language.
- Lindback Comments this is a key section for enforcement. SOS would like the account number, the name of the holder of the account, the names of all who hold signature authority, and they believe this should be made exempt from public records. States they also believe there should be a requirement that the accounts be in Oregon just in case SOS has to get information.
- Rep. Holvey Comments he believes Section 3 requires the account be set up in Oregon. States he agrees having the information is important but sometimes wonders how available all the information that is filed with the SOS is to the public. Asks SOS to check to see what information needs to be available. Gives example of home address and phone number being available to the public. States he believes the candidates should be aware of what information they are providing to the SOS and what information the SOS gives to the public.
- 469 Lindback Advises that the SOS needs specific exemptions in order to hold information that is submitted to them privately. States they are happy to discuss those issues.
- Chair G. Smith Comments he is uncomfortable having his account number provided to the SOS; he has no problem with the SOS being able to request or call for it if he were chosen as part of an audit or review, whichever is decided. In terms of disclosing it until it is needed, he would have a problem with that.
- 488 Rep. Hunt Asks if there is information they collect that is not open to public records.
- 493 Lindback Explains SOS received a complaint last election cycle. They covered up the signatures on the reports when the reports were put on the internet and they have not received any complaints about that so far. Signatures are available if someone comes in the office and looks at the report. States they do take steps here and there to try to make sensible decisions but some things are just public information unless the law says they are not.

035	Chair G. Smith	Asks what SOS would gain by having the account number.
	Lindback	Responds it is for ease of enforcement if they have to enforce something.
038	Rep. Thatcher	Asks how SOS would enforce it.
	Lindback	Explains that if they have someone that is uncooperative, they have to subpoena the bank records. It would save time and public expense in trying to find the information if they are trying to do enforcement against someone who is uncooperative.
048	Chair G. Smith	States he is uncomfortable having his bank account number out there.
	Rep. Hunt	Asks if SOS can go to a financial institution and ask for the account information.
	Lindback	Responds that the financial institution would want a subpoena from SOS.
055	Rep. Hunt	Asks if the institution would still want a subpoena if SOS had the account number.
	Lindback	Responds affirmatively.
056	Rep. Hunt	Comments that if SOS does not have a process where they divide information between public records and not, it seems safer to keep everything in the public records. If there was some way to enable SOS to do an audit, he would be for it but he is not seeing how the information would enable SOS to do an audit or investigation.
	Neal	Adds that SOS needs statutory exemptions such as they now have for candidates' home addresses. If they have a court order under the public records law, SOS will include their home address from any candidate information that is available to the public. States they have a process of keeping information that is exempt from public record from public disclosure, by computer and internal office procedures.
064	Rep. Hunt	Asks if every account would allow SOS to do regulatory enforcement for audits.

	Neal	Responds it would simply give them a reference point with the bank. Adds that since they would have the name on the account as it is exactly on the bank records and there is no other account in that name, and they know which branch the account is with, the account number probably is not necessary. The account does need to be in Oregon.
079	Rep. Thatcher	Asks if there would be a penalty if they change treasurer or some other signatory authorization and didn't report it.
	Neal	Responds that the statute currently requires that when something in the statement of organization is changed, you have to update the information within 10 days.
095	Rep. Thatcher	Asks how that would help SOS.
	Neal	Responds that it ensures that the people on file are the people who get to write checks on that account; they don't have that assurance today. Adds that SOS believes those names should be exempt from public records because they do not want bad people to use the information to access the account or funds.
104	Chair G. Smith	Ask the witnesses to contact the banks and credit association to see what is possible.
113	Chair G. Smith	Asks that Reutlinger review Section 6 on page 4 of HB 3458.
	Reutlinger	Explains that Section 6 adds Section 7 to ORS chapter 260, the campaign finance chapter. Section 7 is the statute that would require random reviews of contribution and expenditure statements (C&Es). It would apply to state offices only. State office includes statewide officials and members of the legislature.
	Reutlinger	Reads language in lines 1-3 on page 5 of HB 3458. States the language would apply from January 1, 2006 until January 1, 2007, at which point the electronic system would kick in. This section applies to the current paper filing system used. It would only apply for 2006. The statute would require that the SOS conduct these random audits three months after the primary and general elections.
143	Rep. Hunt	Asks if it would be three months after the election or three months after the deadline for filing each statement.

	Reutlinger	Responds that it would be three months after the deadline for filing the statement.
	Chair G Smith	Asks if we are assuming there will be electronic filing and that there will be money behind it.
149	Reutlinger	Explains that Section 8 looks similar; it is Section 7 amended to address electronic filing. Section 8 takes effect January 1, 2007 to accommodate electronic filing. It would be the same concept with random reviews but Section 7 covers the current paper system for a year and Section 8 covers electronic filing.
160	Chair G. Smith	Asks if there is fiscal impact for year 2006.
	Lindback	States their office is reviewing all the fiscal aspects of this bill and hopefully will have it completed by noon tomorrow.
172	Chair G. Smith	Advises members that he is open to wherever the committee wants to go.
	Rep. Thatcher	Asks if there will be random audits after electronic filing begins, rather than random reviews of information provided to SOS. States she anticipates SOS would want paperwork as backup for expenditures and contributions.
182	Reutlinger	Responds that is what Section 8 would do. It will adapt Section 7 to accommodate the electronic filing system. Section 8 takes out the references to ORS 260.058 and substitutes a reference to Section 19 on line 12. Section 19 is the new electronic filing system. It would be a seamless transition as far as the SOS's review authority. The fact that the system changes from paper to electronic on January 1 would not necessarily matter to them. They would still only get to review a maximum of four contributions or expenditures. They would do it on a random basis. They would simply be doing it under an electronic system.
	Lindback	Comments that when SOS staff read the language "provide documentation of not more than four contributions and expenditures listed on each statement for each reporting period" they read it in two ways. Asks that the language be clarified—are they limited to asking for documentation on a total of four transactions or four contributions and four expenditures.

	Reutlinger	Comments that the way the language is written now it is four transactions because it says “contributions and expenditures”. If the committee wants four contributions and four expenditures, then it needs to be specified.
	Chair G. Smith	Asks if four is enough to get an honest check.
216	Lindback	Responds he thinks it is a policy call for the legislature—whether four or eight is enough. States the discussions were about four checks—copies of four different checks. The early discussions were always aimed at expenditures and not contributions. States if the committee wants to prove more public assurance, probably four of each would give the public more assurance that they are doing adequate checks.
	Chair G. Smith	Asks if people would lie about contributions.
	Lindback	Responds probably not unless there was some sort of motivation to lie about the source.
238	Rep. Hunt	Comments he would assume SOS would be looking for that under reporting.
243	Neal	Comments that some committees only have four contributions in a reporting period or four expenditures. On the other hand, a large committee could have hundreds and just using two of each is somewhat a crapshoot as to whether or not they find anything.
252	Rep. Thatcher	Suggests there could be a graduated number.
	Chair G. Smith	Suggests they split the number because it is not a scientific approach; it is an honesty test.
	Rep. Hunt	Points out that the language says “not more than four” and he assumes they would want more in a statewide campaign.
	Neal	Responds that would be logical to them.
	Rep. Holvey	Suggest the number perhaps should be higher or be a percentage.
267	Neal	

States that the committee could just allow SOS to set up a system to graduate up to no more than a certain number of transactions in a committee's reports.

- Chair G. Smith Asks if eight works for SOS.
- 294 Rep. Thatcher Comments that the committee needs to clarify whether the number would be eight total transactions.
- Rep. Holvey States that SOS could then pick whether they would choose four contributions or six contributions and two expenditures.
- Rep. Holvey Comments on discussion on audits and spot checks at the first meeting of the committee and his question on what the cost of a full blown audit would be and where we can go with that. Asks if that has been left out of the bill.
- Lindback Responds he was going to raise the issue because there was a reference to these being random audits. States it is their understanding these are not random audits; they are spot checks of expenditures and contributions.
- Rep. Holvey States he would like to have a discussion whether there should be random audits—should we dedicate some funds to doing random audits of political committees throughout the seasons.
- Chair G. Smith Asks if they have authority to audit.
- Lindback Responds they have the ability to investigate, which is pretty close to auditing. States their assumption is if a problem turns up in a spot check, it would launch an investigation by SOS, which would require them to ask for the records and do some form of audit. If one thing leads to another, they can always ask for more records and treat it in a methodical process where they expand the scope to get whatever information they need.
- 346 Chair G. Smith Asks if “random audit” needs to be changed to “random investigation”.
- 353 Lindback Responds that he thinks the committee should be careful about the wording used here and not lead people to believe that they are doing audits when they are not. Offers to provide information to the

committee if the committee wants to use “audits”. States that SOS refers to them as spot checks.

Rep. Thatcher Comments she is reading “random audits” a couple of different ways—one from a pool of candidates could be picked for a random audit, or everyone can expect to have random transactions in their account checked. Asks which it is.

369 Neal Responds that is for the review of statements.

Lindback Responds that they read HB 3458 to say that it applies to candidate committees only—not other kinds of PACs—and each one would be subject to SOS asking for a random selection of documentation after each report.

377 Rep. Thatcher Comments that everyone could plan on having up to eight transactions chosen to be reviewed.

Reutlinger Advises that the language is subject to a couple of different interpretations and thinks the committee should decide which way they want it. Believes, to some people, this means the SOS will select random candidates and then do it. It would be a good thing to specify clearly in this section which one the committee wants it to be—whether the committee wants the SOS to review a random selection of contribution and expenditures from each candidate or to select random candidates.

Chair G. Smith Comments he does not want everyone having a cloud over their heads not know who is going to get checked. States he is of the opinion that if we are going to transactions, we say everyone turn in what is on line 16. All 90 members would turn in line 16.

413 Lindback Comments that they would appreciate that because they do not relish the thought of the suggestion that whoever they select there would be some political motivation behind the selection.

Rep. Hunt Comments that it doesn’t seem to matter whether it is a random four or eight lines on a sheet or a random four or eight candidates out of the pool. Although he thought he was hearing from some of those who were on the panel that doing a random, more complete review of some was preferable to a spot check of everybody. Asks if he heard accurately what the panel members were saying.

- 443 Lindback Responds that he specifically remembers Lynn Lundquist mentioning random audits; there would be a complete review of financial records.
- 456 Rep. Thatcher Comments that it seems if something comes up doing a spot check process, SOS might have more questions which might trigger a more complete audit and that seems logical.
- 461 Lindback States that is what they are assuming as well. If a problem comes up during a spot check, that will prompt SOS to open an investigation and ask for the financial records to clear up the problem.
- Chair G. Smith States that it may be a situation where someone misreported something or did not do it in the right way and it is a chance to clean it up.
- 472 Lindback Agrees. States that about 99 percent of the issues they deal with are simply people making mistakes.
- Rep. Holvey Asks if we need something in the statute to trigger the SOS to go from the random or spot check review or whatever it is called, to the next step of investigation and then on to an audit.
- Lindback Responds it depends on how much discretion the committee wants to leave to the SOS or prescribe it in statute. States their assumption is it would lead them to an investigation in order to answer the questions.
- 502 Chair G. Smith Comments that the committee is putting a mechanism in place to help SOS snare issues that will keep the process above board.
- 518 Lindback States they feel they have the authority now to seek records and get the information if they need it.

TAPE 4, B

- 041 Rep. Hunt Asks how many candidates this would apply to.
- 041 Lindback States there are about 600 committees that are active in any given election and there are usually around 350 candidates. States this would also apply to local committees. Believes with the local candidates, there would be well over 1,000.

- 050 Neal States there are 1,000 city candidates that are four years terms so there would be 500 every two years; 150 county candidates or 75 every two years. Comments on the 4,000 to 5,000 special districts and variable requirements.
- 063 Rep. Holvey Asks if all the candidates go through the SOS.
- 066 Reutlinger Explains that Section 7 says that it applies to the principle campaign committees of candidates for nomination or election to state office, which eliminates the local people. State office is defined as all statewide officials, members of the legislature, judges and district attorneys. It would not apply to independent PACs, just to candidates for state office. Under the current system as well as the electronic filing, all the people file with the SOS. Only the SOS would be doing the audits.
- Rep. Hunt Questions if there might be some way to institute a structurally sound, nonpolitical process that will motivate the behavior and protect the SOS from being political or appearing political.
- 092 Chair G. Smith States he thinks more dishonesty would be tripped up having it across the board than by trying to grab two every year.
- Committee Discussion continues on whether audits or reviews should be random, whether everyone should be required to report on certain documents.
- 124 Rep. Thatcher Asks what would happen if something were lost or misplaced—what would be serious enough to trigger a full audit.
- 142 Chair G. Smith Comments that 99 percent are mistakes and this is chance to clean them up. If eight items are called for and seven out of the eight are spotless and the eighth one is a mistake, he doubts that SOS would do an audit. But if the person were to say there is a good reason for the eighth item, it would probably trigger SOS to investigate.
- 146 Lindback States that during their investigations they try to ask all the questions they think they need to ask in order to resolve the issue. States they will do what they need to do to try and get the questions answered.
- 187 Rep. Thatcher Asks if someone had eight errors whether they would perhaps be subject to review of eight more transactions being looked at to see if a pattern develops, which would then trigger a full audit.

	Lindback	States they have been discussing that. States they would gradually increase the scope of what they are looking at to see if is really a problem or if it is something minor. States they would keep asking for more information until they get the questions answered but they want to go about it as a gradual process because they do not want to do more work than necessary and they won't have to cause more work for the campaign than is necessary.
198	Rep. Holvey	States he likes to hear that these spot reviews will identify problems and lead to the kind of audit that will bring back the trust to the people of Oregon that campaigns are on the up and up.
	Lindback	States they are fine if that is what people want to do and they are also fine with spot checks married to their current system. It also depends on what legislators as policy makers feel Oregon needs in order to have confidence in the system. States that random audits will probably be more expensive, but first we must define "audit". Is it something very basic or something very complete. Depending on that decision, they can put a cost to it. SOS staff is not trained as auditors; auditors are in the Audits Division so they have the source for the people to do the audits.
260	Chair G. Smith	Asks who would do the audit if a candidate for Governor or SOS is selected for audit.
264	Lindback	States they would have to hire auditors and bring them in house or they would have to contract with an auditor, or they would look to their Audits Division to do it and pay them, somehow, to do the audit.
278	Chair G. Smith	Asks what Lindback thinks the fiscal would be on the across-the-board reviews.
	Lindback	Responds they will be able to provide information tomorrow because they are scratching their heads on some of this. The spot checks will involve a lot of paper coming in and a lot of checking and follow up if there are issues. They may need to add a modest amount of staff and they will be able to determine that by tomorrow.
296	Chair G. Smith	Comments on doing honesty checks in the process of making loans.
	Rep. Thatcher	Asks if the committee is going to recommend that every candidate be subject to up to eight transactions.

308	Chair G. Smith	Responds that is his choice.
	Rep. Thatcher	Asks if the committee is going to determine what happens if a problem is found in one of the transactions.
317	Chair G. Smith	Responds that he believes SOS already has that authority. We are just saying we are going to create an honesty test and if someone fails it, SOS's authority kicks in and they do what they need to do.
	Rep. Holvey	Agrees. States it will be less expensive than doing random full blown investigations or audits.
334	Rep. Thatcher	Asks if the committee wants to establish a threshold because some statewide candidates do not take in \$500.
	Lindback	Suggest that a decision on the issue be deferred until they figure out the fiscal impact.
	Chair G. Smith	States that the intent of the committee would be to not require eight but to allow up to eight based on the discretion of the SOS.
	Neal & Lindback	Suggests that it be based on the amount of money going through the committee and the number of transactions.
	Chair G. Smith	Notes that it would be uniform.
	Neal	Affirms it would be uniform within the framework of up to eight, using some objective criteria to apply to trigger eight.
361	Rep. Thatcher	Asks if the review only includes up to eight, whether they would be able to further investigate.
	Chair G. Smith	Comments that the language will be amended based on these thoughts and the subcommittee will review it again to make sure it reads correctly. State he would feel comfortable having Rep. Hunt here.
376	Chair G. Smith	Asks if the committee and SOS feel comfortable with Section 7.
		Agree with the results of the discussions.

Committee and SOS
staff

- 392 Chair G. Smith States he would feel more comfortable having Rep. Hunt present and recognizes commitments of other members.
- Lindback Comments that SOS does not have any other issues with the bill.
- 413 Chair G. Smith Advises the subcommittee that the subcommittee will continue to work on the bill. Asks committee to stand at ease for 20 minutes at 5:25 p.m.
- 430 Chair G. Smith Reconvenes the meeting at 5:54 p.m. and ask that the committee continue to discuss HB 3458 beginning with Section 8.
- 449 Reutlinger Explains that Section 8 is the audit/review statute adjusted for electronic filing. Anything that is done to Section 7 will be done to Section 8 so it will kick in for electronic filing.
- 458 Reutlinger States that Item 3 of the press release (**EXHIBIT A**) is in Section 11. It says that any PAC that files with the SOS has to submit a copy of a financial institution bank statement with their C&E filings. It applies only in the electronic filing system world. It would require a filing with any electronic statement, the most recent bank statement; it goes back to the dedicated bank account statement under Section 3 of HB 3458. No one has to file the same statement more than once. It allows the SOS to adopt rules to exempt certain personal and confidential information and allows the statement to be subject to review by the public the same as C&E statements are.
- 483 Reutlinger Explains that Section 12 takes effect on January 1, 2008. It won't kick in until the electronic filing system has been in operation for one year; it will not apply to the current system.
- 492 Chair G. Smith Asks why there would be a waiting period of one year.
- 494 Reutlinger Responds those were the drafting instructions and he cannot answer the question.
- 501 Rep. Thatcher Asks if only one filing per year is required.
- Reutlinger

Responds that under the electronic filing system, every time someone receives a contribution or makes an expenditure, they have to file it electronically with the SOS. The bank statement will have to be filed with the statement but the same statement only has to be filed one time. You would end up filing all 12 bank statements with the SOS if there is activity throughout the year.

TAPE 5, A

- 034 Rep. Holvey Asks if this will be pretty close to or drastically different from what the Senate is working on.
- 044 Reutlinger Responds that HB 3458 contains a lot that is not in either the SOS's electronic filing bill in the Senate or other versions of the electronic filing bills. However, the electronic filing provisions of the Senate bill and this bill are virtually the same. When either the Senate or House starts to amend provisions of the electronic filing sections of the bills then they might start to go apart. Right now, the electronic filing parts of HB 3458 match up with what is going on in the Senate, at least in the printed versions of the bills.
- 054 Chair G. Smith Asks what SOS will do with all the statements.
- Lindback Responds they will file them. To the extent they may be useful if they have some issues in the random spot checks, they may be helpful in resolving some issues. Otherwise, they are viewing this as a document they are to make available to the public.
- Chair G. Smith Asks if this would be duplicating a document that is already available to the public because on the C&E reports they already show the checks received and in-kind contributions and they also state the expenditures. This would be showing it again in a different form.
- 068 Lindback Responds this was not part of the electronic filing bill introduced in the Senate but assumes this is a way for the public to verify that what a campaign has reported in the electronic filing system matches what is in the bank records.
- Chair G. Smith Asks if it would be easier in the review to say they want line 16 and part of line 16 includes the bank statement to document it. Asks what SOS will do with them every month. Reasons that it seems silly to send in monthly statement. When SOS makes the random check, part of the document submission would be the verification with the bank statement. It will reduce the amount of paperwork that SOS has

coming in and it is also going to streamline SOS's verification because what will be submitted will relate to exactly what SOS asks for, and if not, something is triggered.

- 086 Lindback States that his assumption was there would be full bank statement verification of what is reported earlier in the process through the electronic filing system, which is required every seven days. The bank statements will trail behind the filings.
- 100 Chair G. Smith States that his preference is that part of the random review is if SOS needs random verification of a checking account balance, SOS would ask the person to submit documentation from the checking account to verify depositing a certain check. Believes that would reduce the amount of paperwork SOS would receive and believes it would become less burdensome for elected officials and candidates. Adds that he does not know what a bank statement would do other than verify what is already reported in the C&E in a different form.
- Lindback Agrees and states that sometimes it can lead to confusion because the bottom line on the bank statement is not always going to match because of timing.
- Chair G. Smith Agrees and states that could cause public misperception and those who have the best interest of Oregon in mind may be watched on for an issue and not understand how the cycle works.
- 120 Rep. Holvey Agrees that the ending balance of the bank statement will not match the report balance because they are not the same dates and checks may not have cleared. There is a lack of comparability of balances but thinks the bank statement do offer a reconciliation part that is probably helpful to SOS. The question is whether they need the bank statements every month from every campaign to do their job with the C&Es.
- 134 Chair G. Smith Comments that in the honesty test, there is nothing that would prohibit SOS from asking for information and documentation on the item in a certain line. The campaign would provide the bank statement and it should have been reconciled.
- 141 Lindback Responds that is the procedure they would use if the spot checks turned up a problem. They would ask for documentation including copies of the check and most likely a bank statement.
- Chair G. Smith Asks what SOS would do with the bank statements every month.

- Lindback Responds that SOS is used to dealing with big quantities of paper and hopefully the electronic system will not have to deal with so much paper. Believes this is an attempt to provide public assurance and an independent way of verifying that what a candidate is putting into the electronic system matches what is in the bank records.
- 155 Chair G. Smith Comments there will be a fiscal tied to it because someone will have to do the work and we need to balance the cost versus the benefit knowing there are other ways of building public confidence.
- 159 Rep. Holvey States he agrees with Chair G. Smith. The bank statement would help SOS reconcile when and where the deposit and contribution happened. Asks if that would be useful to SOS.
- 171 Lindback Responds he thinks where they would start the random spot checks by asking for copies of the check, front and back, for donations. For expenditures, they would ask for copies of the check that went out and an invoice. If there are any issues with that, maybe ask for a bank statement. Believes they probably would ask for a bank statement in stage two if they are having trouble with the documentation provided by the campaign.
- 181 Rep. Thatcher Asks if Lindback said they would ask for copies of the front and back of contribution checks, and asks how the candidate would be in possession of anything that would be on the back of a contribution check.
- 185 Neal States it would only be for expenditures.
- Lindback Agrees with Neal; for contributions they would need the front and for the expenditures they would need the back.
- Neal States that the back of the contribution check would show when it was deposited. Adds that as they understand Section 11 and the bank account statement, it is just total deposits per day, not checks that make up the deposit, and they will receive by check number the payment out, not the payee or who the contributors are. That is why they would want copies of both the contributor checks and expenditure checks.
- 200 Rep. Thatcher States she understands the usefulness of copies of the fronts of the checks but not the back.

	Neal	States it would only become relevant if the question was about when it was deposited—some mismatch between the report dates of when things were received and the bank statement.
204	Rep. Holvey	Comments that as long as SOS has the ability during spot reviews or further investigation based on the spot review, they can request or demand a copy of the bank statements that include the particular deposit on it.
218	Lindback	States that if what people want in the spot checks is for SOS to get a copy of the checks, SOS could require the campaigns, before they deposit the checks to make a copy of the checks and keep them in file.
	Neal	States that SOS used to require copies of the checks but it was a lot of paper.
231	Lindback	Suggest it might be helpful to include in the bill a requirement that candidates maintain a copy of the contributions.
234	Rep. Thatcher	Suggests that in the section on reviews, items that are subject to review be included, such as deposit slips and/or bank statements and/or copies, front and backs, of cancelled checks.
238	Neal	States another statute talks about the SOS setting up the system of accounts and what records need to be maintained. If the committee believes it is useful to expand on that, it would be useful to include what records the campaigns should generate and maintain in that statute.
	Rep. Holvey	States he does not understand why they need a copy of the front and back of the check.
	Neal	States they do not need a copy of the back of contributors' checks.
253	Rep. Holvey	Updates chair on discussion while he was out of the room.
	Chair G. Smith	Asks if there is an issue with the 90 members for keeping copies of the contribution checks.
263	Lindback	Explains that if SOS is expected to ask people for documentation, SOS will need copies of the candidates' copies because the actual

checks will be back in the hands of the contributor or their bank. Adds that members are probably making copies of the contribution checks anyway.

Chair G. Smith Comments it seems like good common practice and if it is lost, there is a process where the candidate can get a copy, but if there are four of them, common sense goes out.

290 Neal States that ORS 260.200 says the SOS shall prescribe a uniform system for accounts. States the committee may want to expand on that to say what kind of records need to be generated. It would then be an expectation of all political committees that they maintain copies of contributions and cancelled checks.

341 Chair G. Smith Asks how many years someone has to keep the copies.

Neal Responds that the statute says two years after the last report was filed; SOS is required to keep them for six years.

Chair G. Smith Asks if he would be obligated to continue reporting for another two years if he were to resign.

Neal Explains Chair G. Smith would only be required to continue to report if he had a balance left but would be required to keep the records for two years.

Chair G. Smith Asks if an unsuccessful candidate who reports and closes out their account is done.

Neal Responds affirmatively. Adds that SOS is required to keep the records for six years and the candidate is required to keep them for two years. Explains the records must be kept for public access.

333 Lindback Explains that the records are filed in the Archives and destroyed after six years.

Chair G. Smith Asks why the SOS keeps the records for six years.

Neal Explains that SOS publishes a summary book for each election for each contribution and expenditures over a certain amount and those are forever, but they keep the reports to back up the summary book

for six years after an election. Adds that SOS has a two-year statute of limitation for going after the candidate for erroneously reporting.

- 365 Lindback Comments that he does not know where the extra four years came from.
- Rep. Holvey Comment he thinks there is a federal law on freedom of information but is not sure.
- 369 Lindback Comments on retention of records requirement and states it does not have anything to do with enforcement.
- 375 Rep. Holvey Asks if we define how we keep records of cash contributions, how would the candidate provide proof of cash contributions.
- 398 Neal Responds it is a common practice to make copies of the money. Adds that a candidate should not take anonymous contributions because the candidate does not know when the person is giving three \$20 bills and suddenly has to report the detail of who that person is by name, where they live and what their occupation is. Gives example of a central committee selling raffle tickets. The part of the ticket with the name goes into the committee record and they can tell when the central committee has received more than \$50 from a person.
- 431 Rep. Holvey Asks if evidence of cash contributions needs to be addressed in this bill.
- Neal Responds he thinks the committee needs to beef up the statute about accounts to also include records.
- Chair G. Smith Asks what the committee decided on the financial institution account statements—how often must those be submitted.
- 441 Rep. Thatcher Responds the committee was talking about having to keep a record of them because they are subject to review by SOS.
- 447 Chair G. Smith Points out that Section 19 says SOS shall adopt an electronic filing system, etc. and wants to make sure we are mailing bank statements in but know that at any point in time, the candidate may be asked to provide the bank statements along with the check that matches the bank statement and the C&E.

456 Rep. Holvey States that it was also his understanding that we would not go for the monthly bank statements as part of this but the bank statements would possibly be asked for to verify the spot check of the contribution so that SOS can reconcile it with the bank statement.

Chair G. Smith Asks if SOS is agreeable.

471 Neal Responds they are fine. States that a technical issue goes to the public records. Their understanding is that counsel would eliminate Sections 11 and 12, which are the operative dates three years out. States that any piece of paper filed with a public agency is a public record and SOS must provide copies unless there is an exception, such as a voter registration card. It is their understanding that exception is written into the law so that nobody can copy the signature. For the same reason, they would think it prudent to exclude the bank account statements because it will have the account number and other information on it that probably is not appropriate for disclosure

501 Chair G. Smith Asks if the account number could be blocked out.

Neal Responds that they can come up with language that is narrow and protects from identify theft.

TAPE 6, A

032 Lindback Asks why the bank statement must be public if we go to a system where the bank statement is only submitted if SOS determines they need it because they would doing it under the guise of some kind of investigation.

039 Neal Responds that it is public record unless it is an on-going criminal investigation and even once a criminal investigation is closed, everything in the file is public record.

041 Rep. Thatcher Asks if the committee wants to define what needs to be kept by a committee for 24 months and then add in an exemption that if SOS does require copies of certain information that personal and confidential information is exempt from public viewing.

Lindback Responds affirmatively.

053 Chair G. Smith

Asks, based on that statement, if we are assuming receipt, bank statement, deposit slip and contribution.

Rep. Thatcher Adds that it would also include copies of checks.

Neal Asks if the committee wants to specify that statutorily or just allow SOS to set it by rule.

Chair G. Smith States he thinks the committee should also define contribution. Gives examples of a box of balloons or yard stakes.

Neal States that the legislature has defined contribution but it is rather convoluted, which is why they have "other receipts" which are money that has to be reported in order to balance because they don't meet the legal definition of contribution. States that is why he is suggesting that the committee try not to get into the specific detail because something might get missed. That is why the committee can delegate it to the administrative agency for flexibility. States that SOS will be prudent and the legislators have a chance to review the rules.

068 Chair G. Smith Comments that he does not feel comfortable defining the items because he thinks SOS needs latitude.

070 Rep. Holvey Explains that he is only trying to get clear what the committee should tell SOS and legal counsel so they are comfortable moving on to the next item. Believes the committee has everything in a row as far as financial statements and when they must be provided, and there needs to be something written that says the confidential information as far as bank accounts and addresses can be blacked out or not accessible to the public.

079 Reutlinger States he has a pretty clear idea of what to write and the committee can look at the language.

083 Reutlinger Explains language on Page 6, Section 14 amending ORS 260.083. States that is one of the main statutes in the campaign finance law. It specifies what has to be contained on the contribution and expenditure statements that are filed. This version of that statute applies beginning January 1, 2006 and until January 1, 2007. It is a transition until electronic filing in 2007. It changes what must be reported for expenditures. Currently, when someone makes an expenditure, they must report the name, amount and purpose. This adds a requirement for reporting the business name of the person to whom the

expenditure was made, the city in which they are located and if the person does not live in a city, the county they are located in and the state they are located in. That is all that is included in Section 14.

- 098 Rep. Thatcher Questions when a contribution could be made to someone other than a business—asks if the committee wants to limit it just to businesses or a payee.
- 102 Reutlinger Advises that existing law says name of payee. States there must be a desire to have a business name instead of just a personal name of someone who represents a business. States he is not certain what is driving this change.
- 112 Lindback Explains that this new provision goes back to a specific case. States it was unclear where a check had been written to and the name of the business was not correctly listed. States his guess is the attempt is to make sure a campaign is listing the name and if they get the name wrong, there would be an address so SOS could further check on it to narrow it down.
- 126 Chair G. Smith Comments that in eastern Oregon, they get cash register receipts.
- Lindback States he believes the attempt is to get more complete information on to whom and where expenditures are going.
- 133 Rep. Holvey Asks if they must now list that information on the C&Es.
- Lindback Responds that only the name and amount must be listed on the C&E.
- Neal Notes that the italicized language in lines 12 and 13 on page 6 is existing language.
- 139 Chair G. Smith Asks for explanation of the new language on lines 14 and 15 on page 6.
- Reutlinger Explains the drafting instructions were to require the name of the city in which the payee is located and if the payee does not live in a city, then the county where the payee lives must be listed.
- Neal & Reutlinger Explain that SOS reads the language to say if a person whose address is Boardman but does not live in the city of Boardman, the

information required to be submitted would be Morrow County, Oregon.

- Neal
Comments he wonders why they would not ask for a complete address, the same as for contributors. Asks Reutlinger if someone would avoid submitting the information if the language said city and state.
- Reutlinger
Responds he does not know the answer. The only reason it is drafted this way is to account for anyone who lives within any political subdivision in any state.
- 177 Rep. Holvey
Asks if they are trying to identify if the name or business is real and by saying city or county, the business name can be verified.
- 182 Lindback
Responds that the allegation is phantom expenditures.
- Committee
Continues discussion of new language in lines 14 and 15 on page 6.
- 221 Neal
States he thinks they want to distinguish between the address of a contributor, which they need the mailing address for, and the address of a payee, which all they need is the city and state for. If the committee agrees with that, counsel can draft language.
- Rep. Thatcher
Comments that it gives SOS another tool to verify whether a place is real.
- 240 Rep. Holvey
States if he were to write a check to Mickey Mouse in Eugene, Oregon, they could find him if he is there.
- Chair G. Smith
States then he should have a receipt that documents Mickey Mouse.
- Rep. Thatcher
Comments that Chair G. Smith might have a receipt but it might not have a name on it.
- 246 Moore
Explains that he notices for contributors, it asks for the name and address whereas on the payee it does not ask for an address.
- Neal
States they would require the city, county and state.

238	Chair G. Smith	Asks if the language should just say the county.
	Neal	Responds it should say the city because everybody knows by a mailing address what city they are ascribed to because every mailing address is by a city in a state. Adds that they do not need the zip code or the mailing address.
276	Chair G. Smith	Asks if the language could say any expenditure over \$50.
	Lindback	Responds that would be another way of approaching it and it would take care of the McDonald drive through issue and it gets into the real campaign expenditure.
	Neal	Comments the same details would apply to the same amount of expenditures as to contributions. \$50 is it. Adds that they would still want the name, amount and purpose for all expenditures regardless of the size, and for those over \$50 they want the address.
304	Lindback	States they just need more information to help them find the business.
	Rep. Thatcher	Asks if the agreement is to require city and county if the expenditure is over \$50.
312	Chair G. Smith	States he thought SOS wanted the city, or county if the payee is not located in the city, because that would help in larger areas.
	Reutlinger	Advises members that he will figure out language.
321	Chair G. Smith	Asks the committee to move to page 7.
	Reutlinger	Explains that Section 16 is the ban on candidate self-compensation as described in the press release (EXHIBIT A). It says that a candidate may not pay himself or herself from candidate funds for services the candidate has rendered to the candidate's own campaign.
350	Rep. Thatcher	States she is one of the owners of a sign company and the company made signs for her campaign. Asks if that would be considered a non-reimbursable expense now, and because she is part owner of the company whether it would be construed as self-reimbursement.

- 365 Neal and Lindback Explain that a candidate could not pay him or herself to be their own bookkeeper.
- 390 Neal States that under the statute that prohibits personal use of candidate campaign committee moneys. A candidate may not pay herself or himself a salary or otherwise compensate themselves for lost time. States that they read Section 16 to say that the candidate committee may not pay the candidate for the rendering of professional services by the candidate.
- 422 Chair G. Smith Ask what “principal campaign committee” means.
- Neal Responds it is the candidate committee as opposed to a PAC or central committee.
- 424 Rep. Thatcher States she is hearing she cannot reimburse herself for her time campaigning and knocking on door but might be able to pay the employees who are campaigning.
- 450 Neal States that the stakes Rep. Thatcher mentioned were not professional services; those are goods and would not be covered by this section.

TAPE 5, B

- 014 Reutlinger Section 17 is the double dipping section. It says you cannot use campaign funds to reimburse yourself, the candidate, for which they have already been specifically reimbursed. States that if a member is reimbursed for mileage during the interim, they cannot also reimburse themselves for the same mileage from the campaign fund.
- 021 Chair G. Smith Asks how one separates out the two if someone drives from eastern Oregon, attends a legislative hearing and also attends a campaign event.
- 024 Reutlinger Explains that under current law the member would receive a per diem during the interim for coming to Salem for the meeting. The member would have to do some pretty careful accounting to make sure he or she was not using campaign funds to pay for some expense that he or she was using per diem to pay for. The question is only could the member use campaign funds to reimburse him or herself for any expenses of the trip.

Neal

Comments that this makes sense because if the member is being reimbursed \$91 by the state for legislative business, the member should not be paying himself/herself for those same expenses from the campaign. If Rep. Thatcher has expenses of \$180 and she does campaigning on the same trip, she could be reimbursed for \$91 if she can document \$180 of expenses. She should be able to use campaign funds for the additional \$89 or whatever.

- Rep. Holvey States she could if there are campaign expenses.
- 056 Reutlinger Advises this is a statutory codification of the existing SOS administrative rule on this matter, which flows from ORS 260.407, which is the statute that prohibits personal use. Very similar language is in the Campaign Finance Manual beginning on page 35.
- 065 Chair G. Smith Asks how this is fair to rural Oregon.
- Neal Reviews history of per diem for legislators. If someone living in Keizer gets a per diem, they pay taxes on it because it is not for actual expenditures.
- 074 Chair G. Smith Comments he does not want to create unnecessary traps.
- Reutlinger Explains that the language is based on the administrative rule. One of the effects is it is not going to apply to per diem members receive during the session because that per diem is given to the members no matter what, it is not given for a particular purpose. During the interim, when a member comes from Heppner, the member is given a per diem specifically because the member is making the trip to Salem, and the member is given a mileage expense. That is a case of being specifically reimbursed for official business. This language says when that happens during the interim, the members cannot pay themselves twice from the campaign fund even though the member was on official business.
- 089 Chair G. Smith Asks how he would account for the \$91 per diem and how would he show that he received the \$91 and anything else he used his campaign money on,
- 105 Neal States he believes Chair G. Smith would have to reimburse his campaign account for the gas because he got paid for the gas he used.

	Reutlinger	Agrees with Neal and adds that Section 17 (2) says if you make an expenditure out of your campaign fund and are later specifically reimbursed for that expense, and the gas mileage would be a good example, then you have to take the per diem reimbursement and put it back into the campaign account.
	Rep. Holvey	Asks if per diem is specifically for gas or if it covers lodging.
	Reutlinger	Explains that during the interim, there is a specific payment for mileage in addition to the per diem for coming to Salem to an official committee hearing.
122	Neal	Asks Reutlinger if he is saying that in the interim the mileage reimbursement is a specific expense but the per diem covers all other expenses incurred by the legislator for that trip. Asks if the per diem is for a specific expense in addition to the mileage reimbursement.
133	Reutlinger	Responds he believes that was the intent. If it doesn't say that clearly enough, we should fix it. Adds that it seems if someone comes from Heppner and receives a \$91 per diem during the interim and buys a room for \$60, it seems the person would be reimbursed by that per diem payment for those costs incurred in the conduct of official business. Under this, it seems it would be illegal for the person to then go back and reimburse himself for the cost of the room also from the campaign fund.
	Rep. Holvey	States that if the per diem is for lodging and food and the hotel was \$60 and the food was \$40, that is \$100 and if the per diem is \$91, the campaign could reimburse the person \$9.
149	Reutlinger	Responds that he believes that is correct.
	Moore	Asks if the reimbursement dealing with per diem is philosophically following the IRS.
	Neal	Responds affirmatively.
168	Chair G. Smith	Comments he is trying to think of the effect of the language in terms of reporting and making sure that all 90 members can figure this out.
163	Reutlinger	States the language is currently the law in the administrative rule.

173	Neal	States they have explained it in letters to the Secretary of the Senate and the Clerk of the House in previous sessions and they have distributed the information.
183	Neal	Clarifies that the per diem is being codified because it is now in administrative rule.
191	Reutlinger	Explains that the only thing that is happening is the administrative rule is being moved to the statute.
	Rep. Holvey	Asks what the reasoning is for moving the rule to statute.
	Reutlinger	Responds that the only reason as he understands it is that the press release says ban double compensation for any expense.
210	Reutlinger	Explains that Section 19 begins the continuous electronic reporting and that is pretty much what is happening in the rest of the bill. Section 19 and those to the end are very similar to all the other electronic reporting bills out there. Section 19 is the meat of it. It requires all candidates and PACs to file with the SOS. It eliminates local county filing offices for candidates, it eliminates city filing offices for candidates. All candidates file electronic statements with the SOS. The campaign must file within seven days of receiving a contribution or making an expenditure. The SOS is then directed to make all the campaign financing information available on the internet according to a schedule adopted by the SOS by rule. It repeals all the paper filings and all the reporting periods that currently exists in the election laws. It does retain some paper filing for campaign finance purposes for people like chief petitioners on state initiative petitions and for people who are making independent expenditures who are not PACs or candidates. They would still file their reports under the existing law but SOS is directed under Section 19 to put all the information onto the internet so that people can pretty much view all the campaign finance activity in Oregon on the internet.
	Chair G. Smith	Asks how someone would electronically file if they do not have a computer or do not have access to the internet.
243	Reutlinger	Responds that this would only apply to candidates and PACs.
247	Lindback	States this is related to the recommendations of the Finance Disclosure Panel and they did discuss the subject of a candidate not having access to the internet. The group felt there is computer availability at public libraries statewide and felt comfortable

requiring this of all candidates. The panel's feeling was that this will make it easier for candidates than the paper filings.

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| | Chair G. Smith | States he likes electronic filing but is concerned about his constituents who may want to run for governor but may not have the technological capability. |
| | Lindback | Comments he thinks those candidates would fall under the threshold for detailed reporting anyway. |
| | Neal | States this is an issue if they go over \$300. |
| 303 | Lindback | States he does not know how to write an exemption for those who might not have technological capabilities without affecting others that we do not want to have an exemption from electronic filing. Adds that the goal behind this is to get as much information to the public as possible as quickly as possible. |
| 311 | Chair G. Smith | Asks how discrimination can be avoided. |
| 312 | Lindback | States he understands Chair G. Smith's frustration; people have the same argument about filing Voters' Pamphlet fees. |
| | Chair G. Smith | States he is fine with the concept but is concerned about discriminating. |
| 333 | Rep. Thatcher | Comments on repeal of law on soliciting along highways and states she does not want that to happen here. |
| 342 | Rep. Holvey | Asks if Section 19 applies to candidate committees and all political committees. |
| 343 | Neal | Responds that it applies to state and local. |
| 343 | Rep. Holvey | Asks if this model will fit everyone. States that so far the committee has been talking about candidate committees and now we are talking about all political committees. |
| | Lindback | Asks if Rep. Holvey is talking about the electronic filing system itself. |

- Rep. Holvey Replies yes, the electronic filing system and the seven-day time limits.
- 362 Rep. Thatcher Asks if this also applies to school board candidates.
- Neal and Lindback Respond affirmatively.
- Chair G. Smith States there has to be an exemption process because culturally it is too discriminatory against people who do not have the capability to electronically file.
- 373 Lindback Responds SOS instituted electronic filing and there is a threshold once you get to the \$50,000 in financial activity. This is a departure from that in that it covers everybody no matter what the level of financial activity is. Reporting is required every seven days under electronic reporting. Asks if they would have to file on paper every seven days, or less than that if filing is by paper. States that exemptions raise a lot of other questions.
- 409 Chair G. Smith Asks staff to do research to see what other states do.
- Neal Explains reports that must be filed if a candidate goes over \$300. This new system is intended to make it easy for them.

TAPE 6, B

- 025 Reutlinger States that most of the other sections in HB 3459 are technical amendments to make the electronic filing system work. The existing election laws are set up for paper filings; this addresses other sections in Chapter 260 to make electronic filing work. ORS 260.083 is the statute that specifies what has to be reported. It must be amended to accommodate electronic filing. Section 20 would become operative at the same time all the other electronic provisions become operative, which is January 1, 2007. The only changes made are to accommodate electronic filing and a calendar year system instead of reporting periods in the paper system.
- 038 Reutlinger Explains that if changes re made in the earlier version of ORS 260.083 in Section 14, the same amendments would have to be made to Section 20. It is in the bill twice--once to apply to the paper system and once to apply to the electronic system.
- 045 Rep. Thatcher Asks for clarification of Section 26.

	Neal	States that SOS has never seen the report covered in Section 26 in 15 years. It is a corporate-paid-in capital report. It would not be filed electronically but because the statutes on campaign finance reports for the primary and general elections are repealed, there must be some date for those to be filed. The report is due in the calendar year in which they pay in the capital to make the contribution or expenditure.
059	Reutlinger	Comments that a smart attorney figured out he could set up a corporation and have people donate money to the corporation and then the corporation made the political contribution to the candidate. The candidate's C&E form indicated a contribution received from the corporation and nobody could find out who gave the money to the corporation. It was a way to hide where the money was coming from. This statute was enacted to say if you are going to do that, you have to report who is giving money to the corporation. It may be at that time they should have been a PAC but apparently there was something in the law that prohibited that and that is why the statute was enacted.
079	Chair G. Smith	Asks if there is a freedom of speech issue. States he is a corporation, a legal entity and can choose to write a check.
077	Neal	Responds that corporations are subject to public regulation.
	Rep. Thatcher	Comments that the language says if the primary purpose of the corporation is to support or oppose any candidate.
	Lindback	States that is what was happening. The only reason this was set up was to make an end run on the contribution and expenditure reporting laws.
087	Chair G. Smith	States he received a contribution request letter from an individual who is incorporated, campaign to re-elect XYZ. It stated it was a corporation.
090	Neal	States if it is an Oregon candidate, and in nearly every state, they would have to file campaign finance reports.
093	Chair G. Smith	Asks what the benefit would be to being a corporation.
093	Neal	Responds the purpose would be to limit liability, principally.

- Reutlinger Refers members to the definition of filing officer on page 10, line 43. States that under current law, the filing officer can be the SOS, the county clerk, the city filing officer. Filing offices are different for districts, cities, county, and the state. A county candidate files with the county clerk and a city candidate files with the city. Under electronic reporting, everybody files with the SOS. The language on page 11 says all candidates and PACS file with the SOS. That leaves chief petitioners for state and local initiative and referendum campaigns and recall. Those people file under a separate statute, ORS 260.118. They would continue to file with the local jurisdiction if they are city, county, district and if it is a state initiative petition, they file with the SOS. If they qualify for the ballot, their petition becomes a measure therefore kicking them into the state campaign finance system. To support a measure, they must be a political committee and are in the electronic filing system.
- 122 Chair G. Smith Asks where he sets up a PAC if he were running for city councilor.
- Neal Explains that he would file his candidacy with the city and file the statement of organization with the city recorder. Under the new system the candidacy would be filed with the city and they must file the principle campaign committee with the SOS.
- 131 Chair G. Smith Asks if the cities and counties will be losing revenue.
- Neal Responds there is no revenue; they will be relieved of staff time to receive, review and retain those campaign finance reports.
- Chair G. Smith Asks if there is a fee to file for city councilor.
- Neal Responds there is usually a fee for candidacy and the cities will not lose the fees. ORS chapter 260 is for campaign finance reporting and the definition of filing officer is just for campaign finance reporting, where the C&E reports are filed. Chapter 249 for candidates is the same. For chapter 221 for city council candidates and chapter 203 for county commissioner candidates--all the special district statutes—the filing officers would be the city or the county or the irrigation district. The fees will go to those jurisdictions.
- 150 Reutlinger Section 23 says if you are a candidate and are not going to spend over \$300, you don't have to file a statement of organization under current law. With the amendment in Section 23, you do not have to electronic file.

	Chair G. Smith	Asks Neal and Lindback if a compromise would be to increase the \$300 to \$1,000 and forget about his issue.
162	Neal	Responds it is a policy issue.
	Chair G. Smith	Comments that the little races are not going to spend more than that.
	Neal	Comments on small campaigns and gives example in Clackamas County where the filing fee of \$20 put them over the limit. States that any threshold raises an issue for SOS because as soon as they reach the threshold they have to file reports. Everyone should have some idea of what is required. Situations are rare but they do exist. The threshold is now \$2,000 for paper filing and \$1,000 would be lower than that. There will be people not filing detailed paper reports.
	Chair G. Smith	Comments that he just wants to make sure everyone in his area has a chance to run. \$1,000 would allow them to run and stay under the threshold.
203	Lindback	Comments there is a \$2,000 limit currently for reporting on paper and that is missing from HB 3458. If the \$1,000 would apply only to electronic, it may meet the concerns.
	Neal	Explains that when the requirement was raised from \$500 to \$2,000, one legislator said that candidates in special districts did not have opponents and did not spend anything and questioned why they should be required to file a statement of organization. Those who spend under \$300 are not on the radar screen. Between \$300 and \$2,000 is for candidates who are serving as their own treasurers. If you are a PAC with \$1 to \$2,000 you are on the radar screen as a blip. If you are a candidate and have from \$300 to \$2,000, you are a blip on the screen.
228	Chair G. Smith	Asks if it can be changed to \$2000.
228	Lindback	Responds affirmatively.
231	Neal	Asks if it would be a threshold for Section 19 and for all committees.
235	Lindback	Explains that the statement of organization would stay the same at \$300. The threshold of \$2000 for paper filing would be moved into the electronic filing system as well.

243	Neal	States SOS would want them to file some kind of certificate saying they do not expect to go over \$2,000.
250	Rep. Thatcher	Asks if the \$2000 would be in aggregate.
	Neal	Responds that it would be whichever is greater, \$2000 in contributions or \$2000 in expenditures.
255	Reutlinger	States the change will have to be made to Section 19 and thinks that ORS 260.112 can be restored and modify it to apply to electronic reporting. It is the statute that exempts people from the paper filing system if they are not going to spend over \$2,000; now repealed by HB 3458. Then Section 19 will say except as provided in ORS 261.112, everybody files.
264	Neal	States they would like to keep everything on a calendar year basis as opposed to an election. If a person spends over \$2,000 in the election year, they must file detail back to January 1 by December 31 of that election year.
276	Rep. Holvey	Asks if it is \$2000 in the year, not \$2,000 on the campaign.
	Neal and Lindback	Responds affirmatively.
	Rep. Holvey	Ask if it is that way currently.
	Lindback	States that currently it is \$2,000 on a campaign.
280	Lindback	States that if the concern is about local candidates, they are not doing more than one campaign a year anyway.
	Neal	Stats that only three cities have primary elections. All others have mayoral candidates and council candidates only in the general election. Special district elections do not have primaries. It is really only the county and state offices.
293	Rep. Holvey	Asks if the \$300 was changed
	Lindback	Responds it was not; that is the statement of organization.

297	Reutlinger	Advises that the remainder of the changes shift from a paper reporting system with first and second reports to a calendar year and the seven day reporting requirement. The most important of the remaining sections is Section 39 on page 22 that tells the SOS they have to maintain all this electronically filed data on the internet for six years.
311	Chair G. Smith	Asks why someone would want to look at somebody's record in 1999.
	Lindback	Responds that someone may want to check for a particular contributor and their pattern of contributions over a period of time.
	Thatcher	Asks what Section 31 is about.
321	Neal	Responds it is something SOS rarely gets. Staff has never seen it.
327	Reutlinger	Sections 23, 24 and 25 set operative dates. The electronic filing system is going to go into effect on January 1, 2007. Some of the parts in the front section of the bill will go into effect immediately. Some will apply only for the next year until the transition to electronic filing. It gives the SOS the authority to begin working now on the electronic filing system even though the system won't become operative until January 1, 2007.
324	Chair G. Smith	Asks if it needs Ways and Means approval.
	Reutlinger	States that the bill may need to go to Ways and Means.
	Reutlinger	Explains that the other changes handle the transition details from paper to electronic filings.
356	Chair G. Smith	Asks where the cash from penalties go.
	Neal	Respond that they go to the General Fund.
	Lindback	Comments they had thought the penalties should go to the Voters' Pamphlet.
368	Chair G. Smith	States he is struggling with having a new paper system for one year and then moving to an electronic system. States he knows there will

be a fiscal because they will have to create new materials. Asks if it makes sense financially and whether it would avoid confusion by saying when the new electronic system comes on line.

Neal States that they revise the forms every two years after legislative changes. The only issue is if new information is required and people use the old form. States they have to revise the manuals and forms. States they have a housekeeping bill in that the House Elections and Rules had heard that has provisions to simplify the forms that they would anticipate getting a favorable review. They view HB 3458 as a disclosure and electronic filing bill.

409 Lindback Adds that the fiscal impact for spot checks will be modest.

Chair G. Smith Asks what they anticipate happening to the FTE that have been used.

412 Neal States they are having that discussion now because with continuous filing they have to review the reports within 10 business days. Electronic filing will have all kinds of drop down menus to help people figure out that they have not filled in a line completely.

Lindback Adds that they will have reporting more often and will still need their current FTE, they think, to review the more frequent reporting. The nature of the jobs may change but they do not think they will need more people unless there is some requirement that SOS start auditing some things.

449 Neal State they will get back to the committee on the fiscal impact.

Chair G. Smith Asks how they back up the system.

Lindback Responds that systems are backed up frequently. States they have 15 full time positions and everybody is trained to do everything because at certain times of the year everybody needs to pitch in on certain tasks and C&E examinations are one of them. In July of the even numbered years everybody process petition sheets and their primary tasks get set aside for a while.

TAPE 7, A

028 Chair G. Smith Thanks everyone for staying late to work on this, and advises members that he will report back to Chair Kitts that the subcommittee has worked through the bill.

030 Chair G. Smith Adjourns the meeting at 7:48 p.m.

EXHIBIT SUMMARY

A. **HB 3458, press release by Speaker Minnis and Rep. Merkley, staff, 2 pp**