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**HOUSE BILL 748
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Short Title: Citizens United Response.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

1 AN ACT TO DEFINE COORDINATION AND COORDINATED EXPENDITURE; TO
2 REQUIRE REPORTING OF AND DISCLOSURES ON INDEPENDENT
3 EXPENDITURES FOR POLITICAL ADVERTISEMENTS THAT IS THE SAME AS
4 THAT OF POLITICAL COMMITTEES; TO REPEAL ARTICLES 22E AND 22F OF
5 CHAPTER 163 OF THE GENERAL STATUTES; TO CLARIFY THE EXEMPTION OF
6 POLITICAL EXPENDITURES TO THE DEFINITION OF "GIFT" UNDER THE STATE
7 GOVERNMENT ETHICS ACT AND THE MISCELLANEOUS REPORTING UNDER
8 CHAPTER 120C OF THE GENERAL STATUTES; TO REPEAL THE
9 UNCONSTITUTIONAL BAN ON CORPORATE INDEPENDENT EXPENDITURES;
10 TO REQUIRE DISCLOSURES ON ELECTIONEERING COMMUNICATION
11 ADVERTISEMENTS; AND TO CLARIFY NO WRITE-IN CANDIDATES ON A
12 NONPARTISAN RUNOFF ELECTION BALLOT.
13

14 The General Assembly Of North Carolina enacts:

15 **SECTION 1.** G.S. 163-278.6 reads as rewritten:

16 **"§ 163-278.6. Definitions.**

17 When used in this Article:

- 18 (1) The term "board" means the State Board of Elections with respect to all
19 candidates for State, legislative, and judicial offices and the county or
20 municipal board of elections with respect to all candidates for county and
21 municipal offices. The term means the State Board of Elections with respect
22 to all statewide referenda and the county or municipal board of elections
23 conducting all local referenda.
- 24 (2) The term "broadcasting station" means any commercial radio or television
25 station or community antenna radio or television station. Special definitions
26 of "radio" and "television" that apply only in Part 1A of this Article are set
27 forth in G.S. 163-278.38Z.
- 28 (3) The term "business entity" means any partnership, joint venture, joint-stock
29 company, company, firm, or any commercial or industrial establishment or
30 enterprise.
- 31 (4) The term "candidate" means any individual who, with respect to a public
32 office listed in G.S. 163-278.6(18), has taken positive action for the purpose
33 of bringing about that individual's nomination or election to public office.
34 Examples of positive action include:



- 1 a. Filing a notice of candidacy or a petition requesting to be a
2 candidate,
3 b. Being certified as a nominee of a political party for a vacancy,
4 c. Otherwise qualifying as a candidate in a manner authorized by law,
5 d. Making a public announcement of a definite intent to run for public
6 office in a particular election, or
7 e. Receiving funds or making payments or giving the consent for
8 anyone else to receive funds or transfer anything of value for the
9 purpose of bringing about that individual's nomination or election to
10 office. Transferring anything of value includes incurring an
11 obligation to transfer anything of value.

12 Status as a candidate for the purpose of this Article continues if the
13 individual is receiving contributions to repay loans or cover a deficit or is
14 making expenditures to satisfy obligations from an election already held.
15 Special definitions of "candidate" and "candidate campaign committee" that
16 apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- 17 (5) The term "communications media" or "media" means broadcasting stations,
18 carrier current stations, newspapers, magazines, periodicals, outdoor
19 advertising facilities, billboards, newspaper inserts, and any person or
20 individual whose business is polling public opinion, analyzing or predicting
21 voter behavior or voter preferences. Special definitions of "print media,"
22 "radio," and "television" that apply only in Part 1A of this Article are set
23 forth in G.S. 163-278.38Z.

- 24 (5h) The term "coordination" means in concert or cooperation with, or at the
25 request or suggestion of.

- 26 (5g) The term "coordinated expenditure" means an expenditure that is made in
27 concert or cooperation with, or at the request or suggestion of, a candidate, a
28 candidate campaign committee as defined in G.S. 163-278.38Z(3), the agent
29 of the candidate, or the agent of the candidate campaign committee. An
30 expenditure for the distribution of information relating to a candidate's
31 campaign, positions, or policies, that is obtained through publicly available
32 resources, including a candidate campaign committee, is not a coordinated
33 expenditure if it is not made in concert or cooperation with, or at the request
34 or suggestion of, a candidate, the candidate campaign committee, the agent
35 of the candidate, or the agent of the candidate campaign committee.

- 36 (6) The terms "contribute" or "contribution" mean any advance, conveyance,
37 deposit, distribution, transfer of funds, loan, payment, gift, pledge or
38 subscription of money or anything of value whatsoever, made t̄eto, or in
39 coordination with, a candidate to support or oppose the nomination or
40 election of one or more clearly identified candidates, to a political
41 committee, to a political party, or to a referendum committee, whether or not
42 made in an election year, and any contract, agreement, or other obligation to
43 make a contribution. An expenditure forgiven by a person or entity to whom
44 it is owed shall be reported as a contribution from that person or entity.
45 These terms include, without limitation, such contributions as labor or
46 personal services, postage, publication of campaign literature or materials,
47 in-kind transfers, loans or use of any supplies, office machinery, vehicles,
48 aircraft, office space, or similar or related services, goods, or personal or real
49 property. These terms also include, without limitation, the proceeds of sale
50 of services, campaign literature and materials, wearing apparel, tickets or
51 admission prices to campaign events such as rallies or dinners, and the

1 proceeds of sale of any campaign-related services or goods. Notwithstanding
2 the foregoing meanings of "contribution," the word shall not be construed to
3 include services provided without compensation by individuals volunteering
4 a portion or all of their time on behalf of a candidate, political committee, or
5 referendum committee. The term "contribution" does not include an
6 "independent expenditure." If:

7 a. Any individual, person, committee, association, or any other
8 organization or group of individuals, including but not limited to, a
9 political organization (as defined in section 527(e)(1) of the Internal
10 Revenue Code of 1986) makes, or contracts to make, any
11 disbursement for any electioneering communication, as defined in
12 ~~G.S. 163-278.80(2) and (3) and G.S. 163-278.90(2) and (3);~~ this
13 section; and

14 b. That disbursement is coordinated with a candidate, an authorized
15 political committee of that candidate, a State or local political party
16 or committee of that party, or an agent or official of any such
17 candidate, party, or committee

18 that disbursement or contracting shall be treated as a contribution to the
19 candidate supported by the electioneering communication or that candidate's
20 party and as an expenditure by that candidate or that candidate's party.

21 (7) The term "corporation" means any corporation established under either
22 domestic or foreign charter, and includes a corporate subsidiary and any
23 business entity in which a corporation participates or is a stockholder, a
24 partner or a joint venturer. The term applies regardless of whether the
25 corporation does business in the State of North Carolina.

26 (7a) The term "costs of collection" means monies spent by the State Board of
27 Elections in the collection of the penalties levied under this Article to the
28 extent the costs do not constitute more than fifty percent (50%) of the civil
29 penalty. The costs are presumed to be ten percent (10%) of the civil penalty
30 unless otherwise determined by the State Board of Elections based on the
31 records of expenses incurred by the State Board of Elections for its
32 collection procedures.

33 (7b) The term "day" means calendar day.

34 (7c) The term "election cycle" means the period of time from January 1 after an
35 election for an office through December 31 after the election for the next
36 term of the same office. Where the term is applied in the context of several
37 offices with different terms, "election cycle" means the period from January
38 1 of an odd-numbered year through December 31 of the next even-numbered
39 year.

40 (8) The term "election" means any general or special election, a first or second
41 primary, a run-off election, or an election to fill a vacancy. The term
42 "election" shall not include any local or statewide referendum.

43 (8a) The term "enforcement costs" means salaries, overhead, and other monies
44 spent by the State Board of Elections in the enforcement of the penalties
45 provisions of this Article, including the costs of investigators, attorneys,
46 travel costs for State Board employees and its attorneys, to the extent the
47 costs do not constitute more than fifty percent (50%) of the sum levied for
48 the enforcement costs and civil late penalty.

49 (8j) The term "electioneering communication" means any broadcast, cable, or
50 satellite communication, or mass mailing, or telephone bank that has all the
51 following characteristics:

- 1 a. Refers to a clearly identified candidate for elected office.
2 b. Is aired or transmitted within 60 days of the time set for absentee
3 voting to begin pursuant to G.S. 163-227.2 in an election for that
4 office.
5 c. May be received by either:
6 1. 50,000 or more individuals in the State in an election for
7 statewide office or 7,500 or more individuals in any other
8 election if in the form of broadcast, cable, or satellite
9 communication.
10 2. 20,000 or more households, cumulative per election, in a
11 statewide election or 2,500 households, cumulative per
12 election, in any other election if in the form of mass mailing
13 or telephone bank.
- 14 (8k) The term "electioneering communication" does not include any of the
15 following:
16 a. A communication appearing in a news story, commentary, or
17 editorial distributed through the facilities of any broadcasting station,
18 unless those facilities are owned or controlled by any political party,
19 political committee, or candidate.
20 b. A communication that constitutes an expenditure or independent
21 expenditure under this Article.
22 c. A communication that constitutes a candidate debate or forum
23 conducted pursuant to rules adopted by the Board or that solely
24 promotes that debate or forum and is made by or on behalf of the
25 person sponsoring the debate or forum.
26 d. A communication made while the General Assembly is in session
27 which, incidental to advocacy for or against a specific piece of
28 legislation pending before the General Assembly, urges the audience
29 to communicate with a member or members of the General Assembly
30 concerning that piece of legislation or a solicitation of others as
31 defined in G.S. 120C-100(a)(13) properly reported under Chapter
32 120C of the General Statutes.
33 e. A communication that meets all of the following criteria:
34 1. Does not mention any election, candidacy, political party,
35 opposing candidate, or voting by the general public.
36 2. Does not take a position on the candidate's character or
37 qualifications and fitness for office.
38 3. Proposes a commercial transaction.
39 f. A public opinion poll conducted by a news medium, as defined in
40 G.S. 8-53.11(a)(3), conducted by an organization whose primary
41 purpose is to conduct or publish public opinion polls, or contracted
42 for by a person to be conducted by an organization whose primary
43 purpose is to conduct or publish public opinion polls. This
44 sub-subdivision shall not apply to a push poll. For the purpose of this
45 sub-subdivision, "push poll" shall mean the political campaign
46 technique in which an individual or organization attempts to
47 influence or alter the view of respondents under the guise of
48 conducting a public opinion poll.
49 g. A communication made by a news medium, as defined in
50 G.S. 8-53.11(a)(3), if the communication is in print.

- 1 (9) The terms "expend" or "expenditure" mean any purchase, advance,
2 conveyance, deposit, distribution, transfer of funds, loan, payment, gift,
3 pledge or subscription of money or anything of value whatsoever, whether or
4 not made in an election year, and any contract, agreement, or other
5 obligation to make an expenditure, to support or oppose the nomination,
6 election, or passage of one or more clearly identified candidates, or ballot
7 measure. An expenditure forgiven by a person or entity to whom it is owed
8 shall be reported as a contribution from that person or entity. Supporting or
9 opposing the election of clearly identified candidates includes supporting or
10 opposing the candidates of a clearly identified political party. The term
11 "expenditure" also includes any payment or other transfer made by a
12 candidate, political committee, or referendum committee.
- 13 (9a) The term "independently expend" or "independent expenditure" means an
14 expenditure to support or oppose the nomination or election of one or more
15 clearly identified candidates that is ~~made without consultation or~~
16 ~~coordination with a candidate or agent of a candidate whose nomination or~~
17 ~~election the expenditure supports or whose opponent's nomination or~~
18 ~~election the expenditure opposes.~~ not a coordinated expenditure. Supporting
19 or opposing the election of clearly identified candidates includes supporting
20 or opposing the candidates of a clearly identified political party. A
21 contribution is not an independent expenditure. As applied to referenda, the
22 term "independent expenditure" applies if consultation or coordination does
23 not take place with a referendum committee that supports a ballot measure
24 the expenditure supports, or a referendum committee that opposes the ballot
25 measure the expenditure opposes.
- 26 (10) The term "individual" means a single individual or more than one individual.
- 27 (11) The term "insurance company" means any person whose business is making
28 or underwriting contracts of insurance, and includes mutual insurance
29 companies, stock insurance companies, and fraternal beneficiary
30 associations.
- 31 (12) The term "labor union" means any union, organization, combination or
32 association of employees or workmen formed for the purposes of securing
33 by united action favorable wages, improved labor conditions, better hours of
34 labor or work-related benefits, or for handling, processing or righting
35 grievances by employees against their employers, or for representing
36 employees collectively or individually in dealings with their employers. The
37 term includes any unions to which Article 10, Chapter 95 applies.
- 38 (12k) The term "mass mailing" means any mailing by United States mail or
39 facsimile to 20,000 or more households, cumulative per election, in a
40 statewide election or 2,500 households, cumulative per election, in any other
41 election.
- 42 (13) The term "person" means any business entity, corporation, insurance
43 company, labor union, or professional association.
- 44 (14) The term "political committee" means a combination of two or more
45 individuals, such as any person, committee, association, organization, or
46 other entity that makes, or accepts anything of value to make, contributions
47 or expenditures and has one or more of the following characteristics:
- 48 a. Is controlled by a candidate;
- 49 b. Is a political party or executive committee of a political party or is
50 controlled by a political party or executive committee of a political
51 party;

- 1 c. Is created by a corporation, business entity, insurance company, labor
2 union, or professional association pursuant to G.S. 163-278.19(b); or
3 d. Has the major purpose to support or oppose the nomination or
4 election of one or more clearly identified candidates.

5 Supporting or opposing the election of clearly identified candidates includes
6 supporting or opposing the candidates of a clearly identified political party.

7 If the entity qualifies as a "political committee" under sub-subdivision a., b.,
8 c., or d. of this subdivision, it continues to be a political committee if it
9 receives contributions or makes expenditures or maintains assets or
10 liabilities. A political committee ceases to exist when it winds up its
11 operations, disposes of its assets, and files its final report.

12 The term "political committee" includes the campaign of a candidate who
13 serves as his or her own treasurer.

14 Special definitions of "political action committee" and "candidate campaign
15 committee" that apply only in Part 1A of this Article are set forth in
16 G.S. 163-278.38Z.

- 17 (15) The term "political party" means any political party organized or operating
18 in this State, whether or not that party is recognized under the provisions of
19 G.S. 163-96. A special definition of "political party organization" that
20 applies only in Part 1A of this Article is set forth in G.S. 163-278.38Z.

- 21 (16) Repealed by Session Laws 1999-31, s. 4.

- 22 (17) The term "professional association" means any trade association, group,
23 organization, association, or collection of persons or individuals formed for
24 the purposes of advancing, representing, improving, furthering or preserving
25 the interests of persons or individuals having a common vocation,
26 profession, calling, occupation, employment, or training.

- 27 (18) The term "public office" means any office filled by election by the people on
28 a statewide, county, municipal or district basis, and this Article shall be
29 applicable to such elective offices whether the election therefor is partisan or
30 nonpartisan.

- 31 (18a) The term "referendum" means any question, issue, or act referred to a vote of
32 the people of the entire State by the General Assembly, a unit of local
33 government, or by the people under any applicable local act and includes
34 constitutional amendments and State bond issues. The term "referendum"
35 includes any type of municipal, county, or special district referendum and
36 any initiative or referendum authorized by a municipal charter or local act. A
37 recall election shall not be considered a referendum within the meaning of
38 this Article.

- 39 (18b) The term "referendum committee" means a combination of two or more
40 individuals such as a committee, association, organization, or other entity or
41 a combination of two or more business entities, corporations, insurance
42 companies, labor unions, or professional associations such as a committee,
43 association, organization, or other entity the primary purpose of which is to
44 support or oppose the passage of any referendum on the ballot. If the entity
45 qualifies as a "referendum committee" under this subdivision, it continues to
46 be a referendum committee if it receives contributions or makes
47 expenditures or maintains assets or liabilities. A referendum committee
48 ceases to exist when it winds up its operations, disposes of its assets, and
49 files its final report.

- 50 (18k) The term "telephone bank" means telephone calls that are targeted to the
51 relevant electorate, except when those telephone calls are made by volunteer

1 workers, whether or not the design of the telephone bank system,
2 development of calling instructions, or training of volunteers was done by
3 paid professionals.

- 4 (19) The term "treasurer" means an individual appointed by a candidate, political
5 committee, or referendum committee as provided in G.S. 163-278.7 or
6 G.S. 163-278.40A."

7 **SECTION 2.** G.S. 163-278.12 reads as rewritten:

8 **"§ 163-278.12. Special reporting of contributions and independent expenditures.**

9 (a) Subject to G.S. 163-278.39 and G.S. 163-278.14, individuals and other entities not
10 otherwise prohibited from doing so may make independent expenditures. In the event an
11 ~~individual~~individual, person, or other entity making independent expenditures but not otherwise
12 required to report them makes independent expenditures in excess of one hundred dollars
13 (\$100.00), that ~~individual~~individual, person, or entity shall file a statement of such independent
14 expenditure with the appropriate board of elections in the manner prescribed by the State Board
15 of Elections.

16 (b) Any person or entity other than an individual that is permitted to make contributions
17 but is not otherwise required to report them shall report each contribution in excess of one
18 hundred dollars (\$100.00) with the appropriate board of elections in the manner prescribed by
19 the State Board of Elections.

20 (c) In assuring compliance with subsections (a) and (b) of this section, the State Board
21 of Elections shall require the identification of each person or entity making a donation of more
22 than one hundred dollars (\$100.00) to the entity filing the report if the donation was made ~~for~~
23 ~~the purpose of furthering~~to further the reported independent expenditure or contribution. If the
24 donor is an individual, the statement shall also contain the principal occupation of the donor.
25 The "principal occupation of the donor" shall mean the same as the "principal occupation of the
26 contributor" in G.S. 163-278.11.

27 (d) Contributions or independent expenditures required to be reported under this section
28 shall be reported within 30 days after they exceed one hundred dollars (\$100.00) or 10 days
29 before an election the contributions or independent expenditures affect, whichever occurs
30 earlier.

31 (e) The State Board of Elections shall require subsequent reporting of independent
32 expenditures according to the same schedule required of political committees under
33 G.S. 163-278.9(a). An individual or person that makes an independent expenditure shall
34 disclose by report to the State Board of Elections within 48 hours of incurring an expense of
35 five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000)
36 or more for making an independent expenditure before an election but after the period covered
37 by the last report due before that election.

38 (f) For the purposes of subsection (c) of this section, a donation to the person or entity
39 making the independent expenditure is deemed to have been donated to further the independent
40 expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this
41 subsection, the "filer" is the person or entity making the independent expenditure and
42 responsible for filing the report, or an agent of that person or entity. For purposes of this
43 subsection, the "donor" is the person or entity donating to the filer the funds or other thing of
44 value, or an agent of that person or entity.

- 45 (1) The donor designates, requests, or suggests that the donation be used for an
46 independent expenditure or for multiple independent expenditures, and the
47 filer agrees to use the donation for an independent expenditure.

- 48 (2) The filer expressly solicited the donor for a donation for making or paying
49 for an independent expenditure.

1 (3) The donor and the filer engaged in substantial written or oral discussion
2 regarding the donor's making, donating, or paying for an independent
3 expenditure.

4 (4) The donor or the filer knew or had reason to know of the filer's intent to
5 make independent expenditures with the donation.

6 A donation shall not be deemed to be made to further an independent expenditure if the
7 donation was a commercial transaction occurring in the ordinary course of business between
8 the donor and the filer unless there is affirmative evidence that the amounts were donated to
9 further an independent expenditure. In determining the amount of a donation that was made to
10 further any particular independent expenditure, there shall be excluded any amount that was
11 designated by the donor with respect to a different election than the election that is the subject
12 of the independent expenditure covered by the report.

13 Subdivisions (1) through (4) of this subsection shall also apply to reports made under
14 subsection (c) of this section concerning contributions. However, nothing in this section shall
15 be interpreted to limit the effect of the prohibition on making contributions in the name of
16 another in G.S. 163-278.14.

17 (g) All reports required by this section shall be filed according to rules adopted by the
18 State Board of Elections. If the expense incurred is greater than five thousand dollars (\$5,000),
19 the report shall be filed electronically. The State Board of Elections shall provide the software
20 necessary to file the electronic report to any individual or person required to file an electronic
21 report at no cost to that individual or person."

22 **SECTION 3.** Article 22A of Chapter 163 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 163-278.12C. Special reporting of electioneering communications.**

25 (a) Every individual or person that incurs an expense for the direct costs of producing
26 or airing electioneering communications aggregating in excess of five thousand dollars
27 (\$5,000) shall file the following reports with the appropriate board of elections in the manner
28 prescribed by the State Board of Elections:

29 (1) The identification of the individual or person incurring the expense, of any
30 individual or person sharing or exercising direction or control over the
31 activities of that individual or person, and of the custodian of the books and
32 accounts of the individual or person incurring the expense.

33 (2) The principal place of business of the person incurring the expense, if not an
34 individual.

35 (3) The amount of each expense incurred during the period covered by the
36 statement and the identification of the individual or person to whom the
37 expense was incurred.

38 (4) The elections to which the electioneering communications pertain, if any,
39 and the names, if known, of the candidates identified or to be identified.

40 (5) The names and addresses of all entities that donated, to further an
41 electioneering communication or electioneering communications, funds or
42 anything of value whatsoever in an aggregate amount of more than one
43 thousand dollars (\$1,000) during the reporting period. If the donor is an
44 individual, the statement shall also contain the principal occupation of the
45 donor. The "principal occupation of the donor" shall mean the same as the
46 "principal occupation of the contributor" in G.S. 163-278.11.

47 (b) The initial report shall be filed with the State Board no later than the 10th day
48 following the day the individual or person incurs an expense for the direct costs of producing or
49 airing an electioneering communication. The State Board shall require subsequent reporting
50 according to the same schedule required of political committees under G.S. 163-278.9(a). An
51 individual or person that produces or airs an electioneering communication shall disclose by

1 report to the State Board within 48 hours of incurring an expense of five thousand dollars
2 (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making
3 an electioneering communication before an election but after the period covered by the last
4 report due before that election.

5 (c) For the purposes of subdivision (a)(5) of this section, a donation to the person or
6 entity making the electioneering communication is deemed to have been donated to further the
7 electioneering communication if any of subdivisions (1) through (4) of this subsection apply.
8 For purposes of this subsection, the "filer" is the person or entity making the electioneering
9 communication and responsible for filing the report, or an agent of that person or entity. For
10 purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or
11 other thing of value, or an agent of that person or entity.

12 (1) The donor designates, requests, or suggests that the donation be used for an
13 electioneering communication or electioneering communications, and the
14 filer agrees to use the donation for that purpose.

15 (2) The filer expressly solicited the donor for a donation for making or paying
16 for an electioneering communication.

17 (3) The donor and the filer engaged in substantial written or oral discussion
18 regarding the donor's making, donating, or paying for an electioneering
19 communication.

20 (4) The donor or the filer knew or had reason to know of the filer's intent to
21 make electioneering communication with the donation.

22 A donation shall not be deemed to be made to further an electioneering communication if
23 the donation was a commercial transaction occurring in the ordinary course of business
24 between the donor and the filer unless there is affirmative evidence that the amounts were
25 donated to further an electioneering communication. In determining the amount of a donation
26 that was made to further any particular electioneering communication, there shall be excluded
27 any amount that was designated by the donor with respect to a different election than the
28 election that is the subject of the electioneering communication covered by the report.

29 (d) All reports required by this section shall be filed according to rules adopted by the
30 State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report
31 shall be filed electronically. The State Board shall provide the software necessary to file the
32 electronic report to any individual or person required to file an electronic report at no cost to
33 that individual or person."

34 **SECTION 4.** G.S. 163-278.17 reads as rewritten:

35 **"§ 163-278.17. Statements of media outlets receiving campaign expenditures regarding**
36 **political advertising.**

37 (a) Repealed by Session Laws 1985, c. 183, s. 1.

38 (b) Each media outlet shall require written authority for each expenditure from each
39 candidate, treasurer or individual making or authorizing an expenditure. A candidate may
40 authorize advertisement paid for by a treasurer appointed by the candidate. All written
41 authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed
42 public records and copies of ~~said those written~~ authorizations shall be available for inspection
43 during normal business hours at the office(s) of the media outlet making the publication or
44 broadcast nearest to the place(s) of publication or broadcast.

45 (c) Repealed by Session Laws 1985, c. 183, s. 2.

46 (d) Each media outlet shall require written authority for each independent expenditure
47 or electioneering communication from each individual, person, or entity making or authorizing
48 an independent expenditure or electioneering communication. All written authorizations of
49 independent expenditures or electioneering communications shall be deemed public records,
50 and copies of those written authorizations shall be available for inspection during normal
51 business hours at the office(s) of the media outlet making the publication or broadcast nearest

1 to the place(s) of publication or broadcast. The written authorization shall include all of the
2 following:

- 3 (1) The name and address of the individual, person, or entity making the
4 independent expenditure or electioneering communication.
5 (2) The information required by G.S. 163-278.39(a), provided however that the
6 provisions of G.S. 163-278.39(a)(7) and (a)(8) shall not apply to radio or
7 television advertising."

8 **SECTION 5.** G.S. 163-278.19 reads as rewritten:

9 **"§ 163-278.19. Violations by corporations, business entities, labor unions, professional**
10 **associations and insurance companies.**

11 (a) Except as provided in subsections (a2), (b), (d), (e), (f), and (g) of this section it
12 shall be unlawful for any corporation, business entity, labor union, professional association or
13 insurance company directly or ~~indirectly~~indirectly do any of the following:

- 14 (1) To make any contribution to a candidate or political ~~committee or to make~~
15 ~~any expenditure to support or oppose the nomination or election of a clearly~~
16 ~~identified candidate;~~committee.
17 (2) To pay or use or offer, consent or agree to pay or use any of its money or
18 property for any contribution to a candidate or political ~~committee or for any~~
19 ~~expenditure to support or oppose the nomination or election of a clearly~~
20 ~~identified candidate; or~~committee.
21 (3) To compensate, reimburse, or indemnify any person or individual for money
22 or property so used or for any contribution or expenditure so ~~made;~~made.

23 ~~and it~~It shall also be unlawful for any officer, director, stockholder, attorney, agent or member
24 of any corporation, business entity, labor union, professional association or insurance company
25 to aid, abet, advise or consent to any such ~~contribution or expenditure;~~contribution, or for any
26 person or individual to solicit or knowingly receive any such ~~contribution or expenditure.~~
27 contribution. Supporting or opposing the election of clearly identified candidates includes
28 supporting or opposing the candidates of a clearly identified political party. Any officer,
29 director, stockholder, attorney, agent or member of any corporation, business entity, labor
30 union, professional association or insurance company aiding or abetting in any contribution ~~or~~
31 ~~expenditure~~ made in violation of this section shall be guilty of a Class 2 misdemeanor, and
32 shall in addition be liable to such corporation, business entity, labor union, professional
33 association or insurance company for the amount of such contribution ~~or expenditure,~~ and the
34 same may be recovered of him upon suit by any stockholder or member thereof.

35 (a1) A transfer of funds shall be deemed to have been a contribution ~~or expenditure~~ made
36 indirectly if it is made to any committee or political party account, whether inside or outside
37 this State, with the intent or purpose of being exchanged in whole or in part for any other funds
38 to be contributed or expended in an election for North Carolina office or to offset any other
39 funds contributed or expended in an election for North Carolina office.

40 (a2) Proceeds of loans made in the ordinary course of business by financial institutions
41 may be used for contributions made in compliance with this Chapter. Financial institutions may
42 also grant revolving credit to political committees and referendum committees in the ordinary
43 course of business.

44 (b) It shall, however, be lawful for any corporation, business entity, labor union,
45 professional association or insurance company to communicate with its employees,
46 stockholders or members and their families on any subject; to conduct nonpartisan registration
47 and get-out-the-vote campaigns aimed at their employees, stockholders, or members and their
48 families; or for officials and employees of any corporation, insurance company or business
49 entity or the officials and members of any labor union or professional association to establish,
50 administer, contribute to, and to receive and solicit contributions to a separate segregated fund
51 to be utilized for political purposes, and those individuals shall be deemed to become and be a

1 political committee as that term is defined in G.S. 163-278.6(14) or a referendum committee as
2 defined in G.S. 163-278.6(18b); provided, however, that it shall be unlawful for any such fund
3 to make a contribution or expenditure by utilizing contributions secured by physical force, job
4 discrimination, financial reprisals or the threat of force, job discrimination or financial
5 reprisals, or by dues, fees, or other moneys required as a condition of membership or
6 employment or as a requirement with respect to any terms or conditions of employment,
7 including, without limitation, hiring, firing, transferring, promoting, demoting, or granting
8 seniority or employment-related benefits of any kind, or by moneys obtained in any
9 commercial transaction whatsoever.

10 (c) A violation of this section is a Class 2 misdemeanor. In addition, the acceptance of
11 any contribution, ~~expenditure, payment, reimbursement, indemnification, or anything of value~~
12 or indemnification under subsection (a) shall be a Class 2 misdemeanor.

13 (d) Whenever a candidate or treasurer is an officer, director, stockholder, attorney,
14 agent, or employee of any corporation, business entity, labor union, professional association or
15 insurance company, and by virtue of his position therewith uses office space and
16 communication facilities of the corporation, business entity, labor union, professional
17 association or insurance company in the normal and usual scope of his employment, the fact
18 that the candidate or treasurer receives telephone calls, mail, or visits in such office which
19 relates to activities prohibited by this Article shall not be considered a violation under this
20 section.

21 (e) Notwithstanding the prohibitions specified in this Article and Article 22 of this
22 Chapter, a political committee organized under provisions of this Article shall be entitled to
23 receive and the corporation, business entity, labor union, professional association, or insurance
24 company designated on the committee's organizational report as the parent entity of the
25 employees or members who organized the committee is authorized to give reasonable
26 administrative support that shall include record keeping, computer services, billings, mailings
27 to members of the committee, membership development, fund-raising activities, office
28 supplies, office space, and such other support as is reasonably necessary for the administration
29 of the committee.

30 The approximate cost of any reasonable administrative support shall be submitted to the
31 committee, in writing, and the committee shall include that cost on the report required by
32 G.S. 163-278.9(a)(6). Also included in the report shall be the approximate allocable portion of
33 the compensation of any officer or employee of the corporation, business entity, labor union,
34 professional association, or insurance company who has devoted more than thirty-five percent
35 (35%) of his time during normal business hours of the corporation, business entity, labor union,
36 professional association, or insurance company during the period covered by the required
37 report. The approximate cost submitted by the parent corporation, business entity, labor union,
38 professional association, or insurance company shall be entered on the committee's report as the
39 final entry on its list of "contributions" and a copy of the written approximate cost received by
40 it shall be attached.

41 The reasonable administrative support given by a corporation, business entity, labor union,
42 professional association, or insurance company shall be designated on the books of the
43 corporation, business entity, labor union, professional association, or insurance company as
44 such and may not be treated by it as a business deduction for State income tax purposes.

45 (f) This section does not prohibit a contribution ~~or independent expenditure~~ by an
46 person or entity that:

- 47 (1) Has as an express purpose promoting social, educational, or political ideas
48 and not to generate business income;
- 49 (2) Does not have shareholders or other persons which have an economic
50 interest in its assets and earnings; and

1 (3) Was not established by a business corporation, by an insurance company, by
2 a business entity, including, but not limited to, those chartered under Chapter
3 55, Chapter 55A, Chapter 55B, or Chapter 58 of the General Statutes, by a
4 professional association, or by a labor union and does not receive substantial
5 revenue from such entities. Substantial revenue is rebuttably presumed to be
6 more than ten percent (10%) of total revenues in a calendar year.

7 (g) If a political committee has as its only purpose accepting contributions and making
8 expenditures to influence elections, and that political committee incorporates as a nonprofit
9 corporation to shield its participants from liability created outside this Chapter, that political
10 committee is not considered to be a corporation for purposes of this section. Incorporation of a
11 political committee does not relieve any individual, person, or other entity of any liability, duty,
12 or obligation created pursuant to any provision of this Chapter. To obtain the benefits of this
13 subsection, an incorporating political committee must state exactly the following language as
14 the only purpose for which the corporation can be organized: "to accept contributions and make
15 expenditures to influence elections as a political committee pursuant to G.S. 163-278.6(14)
16 only." No political committee shall do business as a political committee after incorporation
17 unless it has been certified by the State Board of Elections as being in compliance with this
18 subsection."

19 **SECTION 6.** G.S. 163-278.22 is amended by adding a new subdivision to read:

20 "(15) To establish a process for determination as to whether communication is an
21 expenditure, independent expenditure, or electioneering communication
22 prior to the airing or distribution of that communication when so requested
23 by an individual or person producing a communication. The responsibility
24 for the determination may be delegated to the Executive Director. If the
25 responsibility is delegated to the Executive Director, the process established
26 by the State Board shall require a written determination by the Executive
27 Director to include stated findings and an opportunity for immediate appeal
28 to the State Board of the determination by the Executive Director."

29 **SECTION 7.** G.S. 163-278.38Z(7) reads as rewritten:

30 "(7) "Print media" means billboards, cards, newspapers, newspaper inserts,
31 magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor
32 advertising facilities. ~~A "mass mailing" is a mailing with more than 500~~
33 ~~pieces."~~

34 **SECTION 8.** G.S. 163-278.39 reads as rewritten:

35 "**§ 163-278.39. Basic disclosure requirements for all political ~~campaign~~-advertisements.**

36 (a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an
37 advertisement in the print media or on radio or television that constitutes an ~~expenditure~~
38 expenditure, independent expenditure, electioneering communication, or contribution required
39 to be disclosed under this Article unless all the following conditions are met:

- 40 (1) It bears the legend or includes the statement: "Paid for by _____ [Name of
41 candidate, candidate campaign committee, political party organization,
42 political action committee, referendum committee, individual, or other
43 sponsor]." In television advertisements, this disclosure shall be made by
44 visual legend.
- 45 (2) The name used in the labeling required in subdivision (1) of this subsection
46 is the name that appears on the statement of organization as required in
47 ~~G.S. 163-278.7(b)(1)~~. G.S. 163-278.7(b)(1) or G.S. 163-278.12C(a).
- 48 (3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.
- 49 (4) The sponsor states in the advertisement its position for or against a ballot
50 measure, provided that this subdivision applies only if the advertisement is
51 made for or against a ballot measure.

- 1 (5) In a print media advertisement supporting or opposing the nomination or
2 election of one or more clearly identified candidates, the sponsor states
3 whether it is authorized by a candidate. The visual legend in the
4 advertisement shall state either "Authorized by [name of candidate],
5 candidate for [name of office]" or "Not authorized by a candidate." This
6 subdivision does not apply if the sponsor of the advertisement is the
7 candidate the advertisement supports or that candidate's campaign
8 committee.
- 9 (6) In a print media advertisement that identifies a candidate the sponsor is
10 opposing, the sponsor discloses in the advertisement the name of the
11 candidate who is intended to benefit from the advertisement. This
12 subdivision applies only when the sponsor coordinates or consults about the
13 advertisement or the expenditure for it with the candidate who is intended to
14 benefit.
- 15 (7) In a print media advertisement supporting or opposing the nomination or
16 election of one or more clearly identified candidates that is an independent
17 expenditure, the sponsor discloses the names of the individuals or persons
18 making the five largest donations to the sponsor within the six-month period
19 prior to the purchase of the advertisement if those donations are required to
20 be reported under G.S. 163-278.12.
- 21 (8) In a print media advertisement that is an electioneering communication, the
22 sponsor discloses the names of the individuals or person making the five
23 largest donations to the sponsor within the six-month period prior to the
24 purchase of the advertisement if those donations are required to be reported
25 under G.S. 163-278.12C.

26 If an advertisement described in this section is jointly sponsored, the disclosure statement
27 shall name all the sponsors.

28 (b) Size Requirements. – In a print media advertisement covered by subsection (a) of
29 this section, the height of all disclosure statements required by that subsection shall constitute
30 at least five percent (5%) of the height of the printed space of the advertisement, provided that
31 the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a
32 newspaper insert, the total height of the disclosure statement need not constitute five percent of
33 the printed space of the advertisement if the type of the disclosure statement is at least 28 points
34 in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure
35 requirement of this section applies only to one page, fold, or face. In a television advertisement
36 covered by subsection (a) of this section, the visual disclosure legend shall constitute ~~32 scan~~
37 lines four percent (4%) of vertical picture height in size. In a radio advertisement covered by
38 subsection (a) of this section, the disclosure statement shall last at least two seconds, provided
39 the statement is spoken so that its contents may be easily understood.

40 (c) Misrepresentation of Authorization. – Notwithstanding G.S. 163-278.27(a), any
41 candidate, candidate campaign committee, political party organization, political action
42 committee, referendum committee, individual, or other sponsor making an advertisement in the
43 print media or on radio or television bearing any legend required by subsection (a) of this
44 section that misrepresents the sponsorship or authorization of the advertisement is guilty of a
45 Class 1 misdemeanor."

46 **SECTION 9.** G.S. 163-278.39A reads as rewritten:

47 **"§ 163-278.39A. Disclosure requirements for television and radio advertisements**
48 **supporting or opposing the nomination or election of one or more clearly**
49 **identified candidates.**

50 (a) Expanded Disclosure Requirements. – Any political ~~campaign~~ advertisement on
51 radio or television shall comply with the expanded disclosure requirements set forth in this

1 section. To the extent that it provides the same information required by G.S. 163-278.39, a
2 statement made pursuant to this section satisfies the requirements of G.S. 163-278.39 for the
3 same advertisement.

4 (b) Disclosure Requirements for Television. –

- 5 (1) Candidate advertisements on television. – Television advertisements
6 purchased by a candidate or by a candidate campaign committee supporting
7 or opposing the nomination or election of one or more clearly identified
8 candidates shall include a disclosure statement spoken by the candidate and
9 containing at least the following words: "I am (or "This is____") [name of
10 candidate], candidate for [name of office], and I (or "my campaign____")
11 sponsored this ad." This subdivision applies only to an advertisement that
12 mentions the name of, shows the picture of, transmits the voice of, or
13 otherwise refers to an opposing candidate for the same office as the
14 sponsoring candidate.
- 15 (2) Political party advertisements on television. – Television advertisements
16 purchased by a political party organization supporting or opposing the
17 nomination or election of one or more clearly identified candidates shall
18 include a disclosure statement spoken by the chair, executive director, or
19 treasurer of the political party organization and containing at least the
20 following words: "The [name of political party organization] sponsored this
21 ad opposing/supporting [name of candidate] for [name of office]." The
22 disclosed name of the political party organization shall include the name of
23 the political party as it appears on the ballot.
- 24 (3) Political action committee advertisements on television. – Television
25 advertisements purchased by a political action committee supporting or
26 opposing the nomination or election of one or more clearly identified
27 candidates shall include a disclosure statement spoken by the chief executive
28 officer or treasurer of the political action committee and containing at least
29 the following words: "The [name of political action committee] political
30 action committee sponsored this ad opposing/supporting [name of candidate]
31 for [name of office]." The name of the political action committee used in the
32 advertisement shall be the name that appears on the statement of
33 organization as required in G.S. 163-278.7(b)(1).
- 34 (4) Advertisements on television by an individual. – Television advertisements
35 purchased by an individual supporting or opposing the nomination or
36 election of one or more clearly identified candidates shall include a
37 disclosure statement spoken by the individual and containing at least the
38 following words: "I am [individual's name], and I sponsored this
39 advertisement opposing/supporting [name of candidate] for [name of
40 office]."
- 41 (5) Advertisements on television by another sponsor. – Television
42 advertisements purchased by a sponsor other than a candidate, a candidate
43 campaign committee, a political party organization, a political action
44 committee, or an individual which supports or opposes the nomination or
45 election of one or more clearly identified candidates shall include a
46 disclosure statement spoken by the chief executive or principal decision
47 maker of the sponsor and containing at least the following words: "[Name of
48 sponsor] sponsored this ad." If the sponsor is a corporation that has the
49 purpose of promoting social, educational, or political ideas, the
50 advertisement shall also include a legible listing on the screen indicating that
51 the viewer may obtain additional information on the sponsor and the

- 1 sponsor's donors from the appropriate board of elections, containing at least
2 the following words: "For donor information contact [Name of board of
3 elections with whom information filed]."
- 4 (6) All advertisements on television. – In any television advertisement described
5 in subdivisions (1) through (4) of this subsection, an unobscured, full-screen
6 picture containing the disclosing individual, either in photographic form or
7 through the actual appearance of the disclosing individual on camera, shall
8 be featured throughout the duration of the disclosure statement.
- 9 (7) Electioneering communications on television. – Television advertisements
10 purchased by an individual that are electioneering communications shall
11 include a disclosure statement spoken by the individual and containing at
12 least the following words: "I am [individual's name], and I sponsored this
13 advertisement opposing/supporting [name of candidate] for [name of
14 office]." Television advertisements purchased by a sponsor other than a
15 candidate, a candidate campaign committee, a political party organization, a
16 political action committee, or an individual that are electioneering
17 communications shall include a disclosure statement spoken by the chief
18 executive or principal decision maker of the sponsor and containing at least
19 the following words: "[Name of sponsor] sponsored this ad." If the sponsor
20 is a corporation that has the purpose of promoting social, educational, or
21 political ideas, the advertisement shall also include a legible listing on the
22 screen indicating that the viewer may obtain additional information on the
23 sponsor and the sponsor's donors from the appropriate board of elections,
24 containing at least the following words: "For donor information contact
25 [Name of board of elections with whom information filed]."
- 26 (c) Disclosure Requirements for Radio. –
- 27 (1) Candidate advertisements on radio. – Radio advertisements purchased by a
28 candidate or by a candidate campaign committee supporting or opposing the
29 nomination or election of one or more clearly identified candidates shall
30 include a disclosure statement spoken by the candidate and containing at
31 least the following words: "I am (or "This is ____") [name of candidate],
32 candidate for [name of office], and this ad was paid for (or "sponsored" or
33 "furnished") by [name of candidate campaign committee that paid for the
34 advertisement]." This subdivision applies only to an advertisement that
35 mentions the name of, transmits the voice of, or otherwise refers to an
36 opposing candidate for the same office as the sponsoring candidate.
- 37 (2) Political party advertisements on radio. – Radio advertisements purchased by
38 a political party organization supporting or opposing the nomination or
39 election of one or more clearly identified candidates shall include a
40 disclosure statement spoken by the chair, executive director, or treasurer of
41 the political party organization and containing at least the following words:
42 "This ad opposing/supporting [name of candidate] for [name of office] was
43 paid for (or "sponsored" or "furnished") by [name of political party]." The
44 disclosed name of the political party organization shall include the name of
45 the political party as it appears on the ballot.
- 46 (3) Political action committee advertisements on radio. – Radio advertisements
47 purchased by a political action committee supporting or opposing the
48 nomination or election of one or more clearly identified candidates shall
49 include a disclosure statement spoken by the chief executive officer or
50 treasurer of the political action committee and containing at least the
51 following words: "This ad opposing/supporting [name of candidate] for

1 [name of office] was paid for (or "sponsored" or "furnished") by [name of
2 political action committee] political action committee." The name of the
3 political action committee used in the advertisement shall be the name that
4 appears on the statement of organization as required by
5 G.S. 163-278.7(b)(1).

6 (4) Advertisements on radio by an individual. – Radio advertisements purchased
7 by an individual supporting or opposing the nomination or election of one or
8 more clearly identified candidates shall include a disclosure statement
9 spoken by the individual and containing at least the following words: "I am
10 [individual's name], and this ad opposing/supporting [name of candidate] for
11 [name of office] was paid for (or "sponsored" or "furnished") by me."

12 (5) Advertisements on radio by another sponsor. – Radio advertisements
13 purchased by a sponsor other than a candidate, a candidate campaign
14 committee, a political party organization, a political action committee, or an
15 individual which supports or opposes the nomination or election of one or
16 more clearly identified candidates shall include a disclosure statement
17 spoken by the chief executive or principal decision maker of the sponsor and
18 containing at least the following words: "[Name of sponsor] paid for (or
19 "sponsored" or "furnished") this ad." If the sponsor is a corporation that has
20 the purpose of promoting social, educational, or political ideas, the
21 advertisement shall also include an aural disclosure indicating that the
22 viewer may obtain additional information on the sponsor and the sponsor's
23 donors from the appropriate board of elections, containing at least the
24 following words: "For donor information contact [Name of board of
25 elections with whom information filed]."

26 (6) Electioneering communication on the radio. – Radio advertisements
27 purchased by an individual that are electioneering communications shall
28 include a disclosure statement spoken by the individual and containing at
29 least the following words: "I am [individual's name], and this ad
30 opposing/supporting [name of candidate] for [name of office] was paid for
31 (or "sponsored" or "furnished") by me." Radio advertisements purchased by
32 a sponsor other than a candidate, a candidate campaign committee, a
33 political party organization, a political action committee, or an individual
34 that are electioneering communications shall include a disclosure statement
35 spoken by the chief executive or principal decision maker of the sponsor and
36 containing at least the following words: "[Name of sponsor] paid for (or
37 "sponsored" or "furnished") this ad." If the sponsor is a corporation that has
38 the purpose of promoting social, educational, or political ideas, the
39 advertisement shall also include an aural disclosure indicating that the
40 viewer may obtain additional information on the sponsor and the sponsor's
41 donors from the appropriate board of elections, containing at least the
42 following words: "For donor information contact [Name of board of
43 elections with whom information filed]."

44 (d) Placement of Disclosure Statement in Television and Radio Advertisements. – In
45 advertisements on television, a sponsor may place the disclosure statement required by this
46 section at any point during the advertisement, except if the duration of the advertisement is
47 more than five minutes, the disclosure statement shall be made both at the beginning and end of
48 the advertisement. The sponsor may provide the oral disclosure statement required by this
49 section at the same time as the visual disclosure required under the Communications Act of
50 1934, 47 U.S.C. §§ 315 and 317, is shown. But any visual disclosure legend shall be at least ~~32~~
51 ~~sean lines~~ four percent (4%) of vertical picture height in size. For advertisements on radio, the

1 placement of the oral disclosure statement shall comply with the requirements of the
2 Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

3 (e) Choice of Supporting or Opposing a Candidate. – In its oral disclosure statement, a
4 sponsoring political party organization, political action committee, individual, or other
5 noncandidate sponsor shall choose either to identify an advertisement as supporting or
6 opposing the nomination or election of one or more clearly identified candidates.

7 (e1) Joint Sponsors. – If an advertisement described in this section is jointly sponsored,
8 the disclosure statement shall name all the sponsors and the disclosing individual shall be one
9 of those sponsors. If a candidate is one of the sponsors, that candidate shall be the disclosing
10 individual, and if more than one candidate is the sponsor, at least one of the candidates shall be
11 the disclosing individual.

12 (f) Legal Remedy. – Pursuant to the conditions established in subdivisions (1), (2), and
13 (3) of this subsection, a candidate for an elective office who complied with the television and
14 radio disclosure requirements throughout that candidate's entire campaign shall have a
15 monetary remedy in a civil action against (i) an opposing candidate or candidate committee
16 whose television or radio advertisement violates these disclosure requirements and (ii) against
17 any political party organization, political action committee, individual, or other sponsor whose
18 advertisement for that elective office violates these disclosure requirements:

19 (1) Any plaintiff candidate in a statewide race in an action under this section
20 shall complete and file a Notice of Complaint Regarding Failure to Disclose
21 on Television or Radio Campaign Advertising with the State Board of
22 Elections after the airing of the advertisement but no later than the first
23 Friday after the Tuesday on which the election occurred. Candidates in
24 nonstatewide races may file the notice during the same time period with one
25 county board of elections within the electoral area in which they are
26 candidates. The timely filing of this notice preserves the candidate's right to
27 bring an action in superior court any time within 90 days after the election.
28 A candidate shall bring the civil action in the county where the candidate
29 filed the notice.

30 (2) Upon receiving a favorable verdict in accordance with existing law, the
31 plaintiff candidate shall receive a monetary award of actual damages. The
32 price of actual damages shall be calculated as the total dollar amount of
33 television and radio advertising time that was aired and that the plaintiff
34 candidate correctly identifies as being in violation of the disclosure
35 requirements of this section.

36 The plaintiff candidate shall also receive an award that trebles the
37 amount of actual damages if:

38 a. The plaintiff candidate can establish having notified or attempted to
39 notify the sponsor of the advertisement properly by return-receipt
40 mail about the failure of a particular advertisement or advertisements
41 to comply with the disclosure requirements of this section, and

42 b. After the notice or attempted notice, the advertisement continued to
43 be aired.

44 The treble damages shall be calculated from the date on which the
45 return-receipt notice was accepted or rejected by a defendant sponsoring
46 candidate or candidate committee, political party organization, political
47 action committee, or individual. The plaintiff candidate or candidate
48 committee shall send a copy of any return-receipt mailing to the relevant
49 board of elections as provided in subdivision (1) of this subsection within
50 five days after the notice is returned to the possession of the candidate or
51 candidate committee.

1 The plaintiff candidate may bring the civil action personally or authorize
2 his or her candidate campaign committee to bring the civil action.

- 3 (3) A candidate who violates the disclosure requirements of State law in this
4 section and that candidate's campaign committee shall be jointly and
5 severally liable for the payment of damages and attorneys' fees. If the
6 candidate is held personally liable for any payment of damages or attorneys'
7 fees, the candidate for state or local office shall not use or be reimbursed by
8 funds from the candidate's campaign committee in paying any amount.

9 (g) Relation to the Communications Act of 1934. – Television advertisements by a
10 sponsor supporting or opposing the nomination or election of one or more clearly identified
11 candidates shall comply with the oral disclosure requirements under State law in this section.
12 Those advertisements shall also comply with disclosure requirements under the
13 Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content
14 of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and
15 317, and G.S. 163-278.39(a)(1). The size of those visual legends is determined by
16 G.S. 163-278.39(b), which satisfies requirements under the Communications Act of 1934, 47
17 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements
18 under State law in this section incorporate the content requirements under the Communications
19 Act of 1934, 47 U.S.C. §§ 315 and 317.

20 (h) No Additional Liability of Television or Radio Outlets. – Television or radio outlets
21 shall not be liable under this Part for carriage of political advertisements that fail to include the
22 disclosure requirements provided for in this Part.

23 (i) No Criminal Liability. – Nothing in this section regarding the disclosure
24 requirements in subsections (b) and (c) of this section shall be relied upon or otherwise
25 interpreted to create criminal liability."

26 **SECTION 10.** Article 22E of Chapter 163 of the General Statutes is repealed.

27 **SECTION 11.** Article 22F of Chapter 163 of the General Statutes is repealed.

28 **SECTION 12.** G.S. 163-278.62(5a) reads as rewritten:

29 "(5a) Electioneering communication. – As defined in ~~G.S. 163-278.80~~ and
30 ~~G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period
31 beginning 30 days before absentee ballots become available for a primary
32 and ending on primary election day and during the period 60 days before
33 absentee ballots become available for a general election and ending on
34 general election day."

35 **SECTION 13.** G.S. 163-278.96(6a) reads as rewritten:

36 "(6a) Electioneering communication. – As defined in ~~G.S. 163-278.80~~ and
37 ~~G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period
38 beginning 30 days before absentee ballots become available for a primary
39 and ending on primary election day and during the period 60 days before
40 absentee ballots become available for a general election and ending on
41 general election day."

42 **SECTION 14.** G.S. 138A-3(15) reads as rewritten:

43 "(15) Gift. – Anything of monetary value given or received without valuable
44 consideration by or from a lobbyist, lobbyist principal, liaison personnel, or
45 a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall
46 not be considered gifts under this subdivision:

- 47 a. Anything for which fair market value, or face value if shown, is paid
48 by the covered person or legislative employee.
49 b. Commercially available loans made on terms not more favorable
50 than generally available to the general public in the normal course of
51 business if not made for the purpose of lobbying.

- 1 c. Contractual arrangements or commercial relationships or
2 arrangements made in the normal course of business if not made for
3 the purpose of lobbying.
4 d. Academic or athletic scholarships based on the same criteria as
5 applied to the public.
6 e. ~~Campaign contributions~~ Anything of value properly received and
7 reported as required under Article 22A of Chapter 163 of the General
8 Statutes.
9 f. Expressions of condolence related to a death of an individual, sent
10 within a reasonable time of the death, if the expression is one of the
11 following:
12 1. A sympathy card, letter, or note.
13 2. Flowers.
14 3. Food or beverages for immediate consumption.
15 4. Donations to a religious organization, charity, the State or a
16 political subdivision of the State, not to exceed a total of two
17 hundred dollars (\$200.00) per death per donor."

18 **SECTION 15.** G.S. 120C-800(e) reads as rewritten:

19 "(e) This section shall not apply to any of the following:

- 20 (1) ~~Lawful campaign contributions~~ Anything of value properly received and
21 reported as required under Article 22A of Chapter 163 of the General
22 Statutes.
23 (2) Any reportable expenditure from a designated individual's extended family
24 member to a designated individual.
25 (3) Reportable expenditures associated primarily with the designated
26 individual's employment or that designated individual's immediate family
27 member's employment.
28 (4) Reportable expenditures, other than food, beverages, travel, and lodging,
29 which are received from a person who is a citizen of a country other than the
30 United States or a state other than North Carolina and given during a
31 ceremonial presentation or as a custom.
32 (5) A thing of value that is paid for by the State.
33 (6) A scholarship paid for by a nonpartisan state, regional, national, or
34 international legislative organization of which the General Assembly is a
35 member or a legislator or legislative employee is a member or participant of
36 by virtue of that legislator's or legislative employee's public position, or to an
37 affiliated organization of that nonpartisan state, regional, national, or
38 international organization."

39 **SECTION 15.5.(a)** G.S. 163-293(b) reads as rewritten:

40 "(b) If no candidate for a single office receives a majority of the votes cast, or if an
41 insufficient number of candidates receives a majority of the votes cast for a group of offices, a
42 runoff election shall be held as herein provided:

- 43 (1) If no candidate for a single office receives a majority of the votes cast, the
44 candidate receiving the highest number of votes shall be declared elected
45 unless the candidate receiving the second highest number of votes requests a
46 runoff election in accordance with subsection (c) of this section. In the
47 runoff election only the names of the two candidates who received the
48 highest and next highest number of votes shall be printed on the ballot. No
49 space for write-in votes shall be included on the ballot for the runoff
50 election.

1 (2) If candidates for two or more offices (constituting a group) are to be selected
2 and aspirants for some or all of the positions within the group do not receive
3 a majority of the votes, those candidates equal in number to the positions
4 remaining to be filled and having the highest number of votes shall be
5 declared elected unless some one or all of the candidates equal in number to
6 the positions remaining to be filled and having the second highest number of
7 votes shall request a runoff election in accordance with subsection (c) of this
8 section. In the runoff election to elect candidates for the positions in the
9 group remaining to be filled, the names of all those candidates receiving the
10 highest number of votes and demanding a runoff election shall be printed on
11 the ballot. No space for write-in votes shall be included on the ballot for the
12 runoff election."

13 **SECTION 15.5.(b)** This section becomes effective January 1, 2011, and applies
14 with respect to elections held on or after that date.

15 **SECTION 16.** If any provision of this act or its application is held invalid, the
16 invalidity does not affect other provisions or applications of this act that can be given effect
17 without the invalid provisions or application, and to this end the provisions of this act are
18 severable.

19 **SECTION 17.** Sections 1 through 15 of this act become effective upon
20 preclearance by the United States Department of Justice. The remainder of this act is effective
21 when it becomes law.