

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 748  
Senate Judiciary I Committee Substitute Adopted 7/7/10**

Short Title: Citizens United Response.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED  
AN ACT TO DEFINE COORDINATION AND COORDINATED EXPENDITURE; TO  
REQUIRE REPORTING OF AND DISCLOSURES ON INDEPENDENT  
EXPENDITURES FOR POLITICAL ADVERTISEMENTS THAT IS THE SAME AS  
THAT OF POLITICAL COMMITTEES; TO REPEAL ARTICLES 22E AND 22F OF  
CHAPTER 163 OF THE GENERAL STATUTES; AND TO CLARIFY THE  
EXEMPTION OF POLITICAL EXPENDITURES TO THE DEFINITION OF "GIFT"  
UNDER THE STATE GOVERNMENT ETHICS ACT AND THE MISCELLANEOUS  
REPORTING UNDER CHAPTER 120C OF THE GENERAL STATUTES.

The General Assembly Of North Carolina enacts:

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

**"§ 163-278.6. Definitions.**

When used in this Article:

- (1) The term "board" means the State Board of Elections with respect to all candidates for State, legislative, and judicial offices and the county or municipal board of elections with respect to all candidates for county and municipal offices. The term means the State Board of Elections with respect to all statewide referenda and the county or municipal board of elections conducting all local referenda.
- (2) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of "radio" and "television" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.
- (3) The term "business entity" means any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
- (4) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has taken positive action for the purpose of bringing about that individual's nomination or election to public office. Examples of positive action include:
  - a. Filing a notice of candidacy or a petition requesting to be a candidate,
  - b. Being certified as a nominee of a political party for a vacancy,
  - c. Otherwise qualifying as a candidate in a manner authorized by law,
  - d. Making a public announcement of a definite intent to run for public office in a particular election, or



1 e. Receiving funds or making payments or giving the consent for  
2 anyone else to receive funds or transfer anything of value for the  
3 purpose of bringing about that individual's nomination or election to  
4 office. Transferring anything of value includes incurring an  
5 obligation to transfer anything of value.

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

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

18 (5h) The term "coordination" means in concert or cooperation with, or at the  
19 request or suggestion of.

20 (5g) The term "coordinated expenditure" means an expenditure that is made in  
21 concert or cooperation with, or at the request or suggestion of, a candidate, a  
22 candidate campaign committee as defined in G.S. 163-278.38Z(3), the agent  
23 of the candidate, or the agent of the candidate campaign committee. An  
24 expenditure for the distribution of information relating to a candidate's  
25 campaign, positions, or policies, that is obtained through publicly available  
26 resources, including a candidate campaign committee, is not a coordinated  
27 expenditure if it is not made in concert or cooperation with, or at the request  
28 or suggestion of, a candidate, the candidate campaign committee, the agent  
29 of the candidate, or the agent of the candidate campaign committee.

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

- 1 a. Any individual, person, committee, association, or any other  
2 organization or group of individuals, including but not limited to, a  
3 political organization (as defined in section 527(e)(1) of the Internal  
4 Revenue Code of 1986) makes, or contracts to make, any  
5 disbursement for any electioneering communication, as defined in  
6 ~~G.S. 163-278.80(2) and (3) and G.S. 163-278.90(2) and (3);~~ this  
7 section; and  
8 b. That disbursement is coordinated with a candidate, an authorized  
9 political committee of that candidate, a State or local political party  
10 or committee of that party, or an agent or official of any such  
11 candidate, party, or committee  
12 that disbursement or contracting shall be treated as a contribution to the  
13 candidate supported by the electioneering communication or that candidate's  
14 party and as an expenditure by that candidate or that candidate's party.
- 15 (7) The term "corporation" means any corporation established under either  
16 domestic or foreign charter, and includes a corporate subsidiary and any  
17 business entity in which a corporation participates or is a stockholder, a  
18 partner or a joint venturer. The term applies regardless of whether the  
19 corporation does business in the State of North Carolina.
- 20 (7a) The term "costs of collection" means monies spent by the State Board of  
21 Elections in the collection of the penalties levied under this Article to the  
22 extent the costs do not constitute more than fifty percent (50%) of the civil  
23 penalty. The costs are presumed to be ten percent (10%) of the civil penalty  
24 unless otherwise determined by the State Board of Elections based on the  
25 records of expenses incurred by the State Board of Elections for its  
26 collection procedures.
- 27 (7b) The term "day" means calendar day.
- 28 (7c) The term "election cycle" means the period of time from January 1 after an  
29 election for an office through December 31 after the election for the next  
30 term of the same office. Where the term is applied in the context of several  
31 offices with different terms, "election cycle" means the period from January  
32 1 of an odd-numbered year through December 31 of the next even-numbered  
33 year.
- 34 (8) The term "election" means any general or special election, a first or second  
35 primary, a run-off election, or an election to fill a vacancy. The term  
36 "election" shall not include any local or statewide referendum.
- 37 (8a) The term "enforcement costs" means salaries, overhead, and other monies  
38 spent by the State Board of Elections in the enforcement of the penalties  
39 provisions of this Article, including the costs of investigators, attorneys,  
40 travel costs for State Board employees and its attorneys, to the extent the  
41 costs do not constitute more than fifty percent (50%) of the sum levied for  
42 the enforcement costs and civil late penalty.
- 43 (8j) The term "electioneering communication" means any broadcast, cable,  
44 Internet, or satellite communication, or mass mailing, or telephone bank that  
45 has all the following characteristics:
- 46 a. Refers to a clearly identified candidate for elected office.  
47 b. Is aired or transmitted within 60 days of the time set for absentee  
48 voting to begin pursuant to G.S. 163-227.2 in an election for that  
49 office.  
50 c. May be received by either:

- 1                                   1.     50,000 or more individuals in the State in an election for  
2                                   statewide office or 7,500 or more individuals in any other  
3                                   election if in the form of broadcast, cable, Internet, or satellite  
4                                   communication.
- 5                                   2.     20,000 or more households, cumulative per election, in a  
6                                   statewide election or 2,500 households, cumulative per  
7                                   election, in any other election if in the form of mass mailing  
8                                   or telephone bank.
- 9                   (8k)   The term "electioneering communication" does not include any of the  
10                   following:
- 11                   a.     A communication appearing in a news story, commentary, or  
12                   editorial distributed through the facilities of any broadcasting station,  
13                   unless those facilities are owned or controlled by any political party,  
14                   political committee, or candidate.
- 15                   b.     A communication that constitutes an expenditure or independent  
16                   expenditure under this Article.
- 17                   c.     A communication that constitutes a candidate debate or forum  
18                   conducted pursuant to rules adopted by the Board or that solely  
19                   promotes that debate or forum and is made by or on behalf of the  
20                   person sponsoring the debate or forum.
- 21                   d.     A communication made while the General Assembly is in session  
22                   which, incidental to advocacy for or against a specific piece of  
23                   legislation pending before the General Assembly, urges the audience  
24                   to communicate with a member or members of the General Assembly  
25                   concerning that piece of legislation or a solicitation of others as  
26                   defined in G.S. 120C-100(a)(13) properly reported under Chapter  
27                   120C of the General Statutes.
- 28                   e.     A communication that meets all of the following criteria:
- 29                                   1.     Does not mention any election, candidacy, political party,  
30                                   opposing candidate, or voting by the general public.
- 31                                   2.     Does not take a position on the candidate's character or  
32                                   qualifications and fitness for office.
- 33                                   3.     Proposes a commercial transaction.
- 34                   f.     A public opinion poll conducted by a news medium, as defined in  
35                   G.S. 8-53.11(a)(3), or conducted by an organization whose primary  
36                   purpose is to conduct or publish public opinion polls.
- 37                   g.     A communication made by a news medium, as defined in  
38                   G.S. 8-53.11(a)(3), if the communication is in print.
- 39                   (9)    The terms "expend" or "expenditure" mean any purchase, advance,  
40                   conveyance, deposit, distribution, transfer of funds, loan, payment, gift,  
41                   pledge or subscription of money or anything of value whatsoever, whether or  
42                   not made in an election year, and any contract, agreement, or other  
43                   obligation to make an expenditure, to support or oppose the nomination,  
44                   election, or passage of one or more clearly identified candidates, or ballot  
45                   measure. An expenditure forgiven by a person or entity to whom it is owed  
46                   shall be reported as a contribution from that person or entity. Supporting or  
47                   opposing the election of clearly identified candidates includes supporting or  
48                   opposing the candidates of a clearly identified political party. The term  
49                   "expenditure" also includes any payment or other transfer made by a  
50                   candidate, political committee, or referendum committee.

1 (9a) The term "independently expend" or "independent expenditure" means an  
2 expenditure to support or oppose the nomination or election of one or more  
3 clearly identified candidates that is ~~made without consultation or~~  
4 ~~coordination with a candidate or agent of a candidate whose nomination or~~  
5 ~~election the expenditure supports or whose opponent's nomination or~~  
6 ~~election the expenditure opposes.~~ not a coordinated expenditure. Supporting  
7 or opposing the election of clearly identified candidates includes supporting  
8 or opposing the candidates of a clearly identified political party. A  
9 contribution is not an independent expenditure. As applied to referenda, the  
10 term "independent expenditure" applies if consultation or coordination does  
11 not take place with a referendum committee that supports a ballot measure  
12 the expenditure supports, or a referendum committee that opposes the ballot  
13 measure the expenditure opposes.

14 (10) The term "individual" means a single individual or more than one individual.

15 (11) The term "insurance company" means any person whose business is making  
16 or underwriting contracts of insurance, and includes mutual insurance  
17 companies, stock insurance companies, and fraternal beneficiary  
18 associations.

19 (12) The term "labor union" means any union, organization, combination or  
20 association of employees or workmen formed for the purposes of securing  
21 by united action favorable wages, improved labor conditions, better hours of  
22 labor or work-related benefits, or for handling, processing or righting  
23 grievances by employees against their employers, or for representing  
24 employees collectively or individually in dealings with their employers. The  
25 term includes any unions to which Article 10, Chapter 95 applies.

26 (12k) The term "mass mailing" means any mailing by United States mail or  
27 facsimile to 20,000 or more households, cumulative per election, in a  
28 statewide election or 2,500 households, cumulative per election, in any other  
29 election.

30 (13) The term "person" means any business entity, corporation, insurance  
31 company, labor union, or professional association.

32 (14) The term "political committee" means a combination of two or more  
33 individuals, such as any person, committee, association, organization, or  
34 other entity that makes, or accepts anything of value to make, contributions  
35 or expenditures and has one or more of the following characteristics:

- 36 a. Is controlled by a candidate;  
37 b. Is a political party or executive committee of a political party or is  
38 controlled by a political party or executive committee of a political  
39 party;  
40 c. Is created by a corporation, business entity, insurance company, labor  
41 union, or professional association pursuant to G.S. 163-278.19(b); or  
42 d. Has the major purpose to support or oppose the nomination or  
43 election of one or more clearly identified candidates.

44 Supporting or opposing the election of clearly identified candidates includes  
45 supporting or opposing the candidates of a clearly identified political party.

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

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

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

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

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

11 (17) The term "professional association" means any trade association, group,  
12 organization, association, or collection of persons or individuals formed for  
13 the purposes of advancing, representing, improving, furthering or preserving  
14 the interests of persons or individuals having a common vocation,  
15 profession, calling, occupation, employment, or training.

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

20 (18a) The term "referendum" means any question, issue, or act referred to a vote of  
21 the people of the entire State by the General Assembly, a unit of local  
22 government, or by the people under any applicable local act and includes  
23 constitutional amendments and State bond issues. The term "referendum"  
24 includes any type of municipal, county, or special district referendum and  
25 any initiative or referendum authorized by a municipal charter or local act. A  
26 recall election shall not be considered a referendum within the meaning of  
27 this Article.

28 (18b) The term "referendum committee" means a combination of two or more  
29 individuals such as a committee, association, organization, or other entity or  
30 a combination of two or more business entities, corporations, insurance  
31 companies, labor unions, or professional associations such as a committee,  
32 association, organization, or other entity the primary purpose of which is to  
33 support or oppose the passage of any referendum on the ballot. If the entity  
34 qualifies as a "referendum committee" under this subdivision, it continues to  
35 be a referendum committee if it receives contributions or makes  
36 expenditures or maintains assets or liabilities. A referendum committee  
37 ceases to exist when it winds up its operations, disposes of its assets, and  
38 files its final report.

39 (18k) The term "telephone bank" means telephone calls that are targeted to the  
40 relevant electorate, except when those telephone calls are made by volunteer  
41 workers, whether or not the design of the telephone bank system,  
42 development of calling instructions, or training of volunteers was done by  
43 paid professionals.

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

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

48 **"§ 163-278.12. Special reporting of contributions and independent expenditures.**

49 (a) Subject to G.S. 163-278.39 and G.S. 163-278.14, individuals and other entities not  
50 otherwise prohibited from doing so may make independent expenditures. In the event an  
51 individual or other entity making independent expenditures but not otherwise required to report

1 them makes independent expenditures in excess of one hundred dollars (\$100.00), that  
2 individual or entity shall file a statement of such independent expenditure with the appropriate  
3 board of elections in the manner prescribed by the State Board of Elections.

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

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

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

19 (e) The State Board of Elections shall require subsequent reporting of independent  
20 expenditures according to the same schedule required of political committees under  
21 G.S. 163-278.9(a). An individual or person that makes an independent expenditure shall  
22 disclose by report to the State Board of Elections within 48 hours of incurring an expense of ten  
23 thousand dollars (\$10,000) or more or receiving a donation of one thousand dollars (\$1,000) or  
24 more for making an independent expenditure before an election but after the period covered by  
25 the last report due before that election.

26 (f) For the purposes of subsection (c) of this section, a donation to the entity making the  
27 independent expenditure is deemed to have been donated to further the independent  
28 expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this  
29 subsection, the "filer" is the entity making the independent expenditure and responsible for  
30 filing the report, or an agent of that entity. For purposes of this subsection, the "donor" is the  
31 entity donating to the filer the funds or other thing of value, or an agent of that entity.

32 (1) The donor designates, requests, or suggests that the donation be used for an  
33 independent expenditure or for multiple independent expenditures, and the  
34 filer agrees to use the donation for an independent expenditure.

35 (2) The filer expressly solicited the donor for a donation for making or paying  
36 for an independent expenditure.

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

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

42 A donation shall not be deemed to be made to further an independent expenditure if the  
43 donation was a commercial transaction occurring in the ordinary course of business between  
44 the donor and the filer unless there is affirmative evidence that the amounts were donated to  
45 further an independent expenditure. In determining the amount of a donation that was made to  
46 further any particular independent expenditure, there shall be excluded any amount that was  
47 designated by the donor with respect to a different election than the election that is the subject  
48 of the independent expenditure covered by the report.

49 Subdivisions (1) through (4) of this subsection shall also apply to reports made under  
50 subsection (c) of this section concerning contributions. However, nothing in this section shall

1 be interpreted to limit the effect of the prohibition on making contributions in the name of  
2 another in G.S. 163-278.14.

3 (g) All reports required by this section shall be filed according to rules adopted by the  
4 State Board of Elections. If the expense incurred is greater than ten thousand dollars (\$10,000),  
5 the report shall be filed electronically. The State Board of Elections shall provide the software  
6 necessary to file the electronic report to any individual or person required to file an electronic  
7 report at no cost to that individual or person."

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

10 **"§ 163-278.12C. Special reporting of electioneering communications.**

11 (a) Every individual or person that incurs an expense for the direct costs of producing  
12 or airing electioneering communications aggregating in excess of five thousand dollars  
13 (\$5,000) shall file the following reports with the appropriate board of elections in the manner  
14 prescribed by the State Board of Elections:

15 (1) The identification of the individual or person incurring the expense, of any  
16 individual or person sharing or exercising direction or control over the  
17 activities of that individual or person, and of the custodian of the books and  
18 accounts of the individual or person incurring the expense.

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

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

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

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

33 (b) The initial report shall be filed with the State Board no later than the 10<sup>th</sup> day  
34 following the day the individual or person incurs an expense for the direct costs of producing or  
35 airing an electioneering communication. The State Board shall require subsequent reporting  
36 according to the same schedule required of political committees under G.S. 163-278.9(a). An  
37 individual or person that produces or airs an electioneering communication shall disclose by  
38 report to the State Board within 48 hours of incurring an expense of ten thousand dollars  
39 (\$10,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making  
40 an electioneering communication before an election but after the period covered by the last  
41 report due before that election.

42 (c) For the purposes of subdivision (a)(5) of this section, a donation to the entity  
43 making the electioneering communication is deemed to have been donated to further the  
44 electioneering communication if any of subdivisions (1) through (4) of this subsection apply.  
45 For purposes of this subsection, the "filer" is the entity making the electioneering  
46 communication and responsible for filing the report, or an agent of that entity. For purposes of  
47 this subsection, the "donor" is the entity donating to the filer the funds or other thing of value,  
48 or an agent of that entity.

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



- 1           (2)    The filer expressly solicited the donor for a donation for making or paying  
2                   for an electioneering communication.
- 3           (3)    The donor and the filer engaged in substantial written or oral discussion  
4                   regarding the donor's making, donating, or paying for an electioneering  
5                   communication.
- 6           (4)    The donor or the filer knew or had reason to know of the filer's intent to  
7                   make electioneering communication with the donation.

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

15           (d) All reports required by this section shall be filed according to rules adopted by the  
16           State Board. If the expense incurred is greater than ten thousand dollars (\$10,000), the report  
17           shall be filed electronically. The State Board shall provide the software necessary to file the  
18           electronic report to any individual or person required to file an electronic report at no cost to  
19           that individual or person."

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

21           "**§ 163-278.17. Statements of media outlets receiving campaign expenditures regarding**  
22           **political advertising.**

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

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

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

32           (d)    Each media outlet shall require written authority for each independent expenditure  
33           or electioneering communication from each individual or entity making or authorizing an  
34           independent expenditure or electioneering communication. All written authorizations of  
35           independent expenditures or electioneering communications shall be deemed public records,  
36           and copies of those written authorizations shall be available for inspection during normal  
37           business hours at the office(s) of the media outlet making the publication or broadcast nearest  
38           to the place(s) of publication or broadcast. The written authorization shall include all of the  
39           following:

40           (1)    The name and address of the individual or entity making the independent  
41                   expenditure or electioneering communication.

42           (2)    The information required by G.S. 163-278.39(a), provided however that the  
43                   provisions of G.S. 163-278(a)(7) and (8) shall not apply to radio or  
44                   television advertising."

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

46           "**§ 163-278.19. Violations by corporations, business entities, labor unions, professional**  
47           **associations and insurance companies.**

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

- 1           (1) To make any contribution to a candidate or political ~~committee or to make~~  
2           ~~any expenditure to support or oppose the nomination or election of a clearly~~  
3           ~~identified candidate;~~committee.  
4           (2) To pay or use or offer, consent or agree to pay or use any of its money or  
5           property for any contribution to a candidate or political ~~committee or for any~~  
6           ~~expenditure to support or oppose the nomination or election of a clearly~~  
7           ~~identified candidate; or~~committee.  
8           (3) To compensate, reimburse, or indemnify any person or individual for money  
9           or property so used or for any contribution or expenditure so ~~made;~~made.

10 ~~and it~~ It shall also be unlawful for any officer, director, stockholder, attorney, agent or member  
11 of any corporation, business entity, labor union, professional association or insurance company  
12 to aid, abet, advise or consent to any such ~~contribution or expenditure;~~contribution, or for any  
13 person or individual to solicit or knowingly receive any such ~~contribution or expenditure.~~  
14 contribution. Supporting or opposing the election of clearly identified candidates includes  
15 supporting or opposing the candidates of a clearly identified political party. Any officer,  
16 director, stockholder, attorney, agent or member of any corporation, business entity, labor  
17 union, professional association or insurance company aiding or abetting in any contribution ~~or~~  
18 ~~expenditure~~ made in violation of this section shall be guilty of a Class 2 misdemeanor, and  
19 shall in addition be liable to such corporation, business entity, labor union, professional  
20 association or insurance company for the amount of such contribution ~~or expenditure,~~ and the  
21 same may be recovered of him upon suit by any stockholder or member thereof.

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

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

31       (b) It shall, however, be lawful for any corporation, business entity, labor union,  
32 professional association or insurance company to communicate with its employees,  
33 stockholders or members and their families on any subject; to conduct nonpartisan registration  
34 and get-out-the-vote campaigns aimed at their employees, stockholders, or members and their  
35 families; or for officials and employees of any corporation, insurance company or business  
36 entity or the officials and members of any labor union or professional association to establish,  
37 administer, contribute to, and to receive and solicit contributions to a separate segregated fund  
38 to be utilized for political purposes, and those individuals shall be deemed to become and be a  
39 political committee as that term is defined in G.S. 163-278.6(14) or a referendum committee as  
40 defined in G.S. 163-278.6(18b); provided, however, that it shall be unlawful for any such fund  
41 to make a contribution or expenditure by utilizing contributions secured by physical force, job  
42 discrimination, financial reprisals or the threat of force, job discrimination or financial  
43 reprisals, or by dues, fees, or other moneys required as a condition of membership or  
44 employment or as a requirement with respect to any terms or conditions of employment,  
45 including, without limitation, hiring, firing, transferring, promoting, demoting, or granting  
46 seniority or employment-related benefits of any kind, or by moneys obtained in any  
47 commercial transaction whatsoever.

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

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

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

18 The approximate cost of any reasonable administrative support shall be submitted to the  
19 committee, in writing, and the committee shall include that cost on the report required by  
20 G.S. 163-278.9(a)(6). Also included in the report shall be the approximate allocable portion of  
21 the compensation of any officer or employee of the corporation, business entity, labor union,  
22 professional association, or insurance company who has devoted more than thirty-five percent  
23 (35%) of his time during normal business hours of the corporation, business entity, labor union,  
24 professional association, or insurance company during the period covered by the required  
25 report. The approximate cost submitted by the parent corporation, business entity, labor union,  
26 professional association, or insurance company shall be entered on the committee's report as the  
27 final entry on its list of "contributions" and a copy of the written approximate cost received by  
28 it shall be attached.

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

33 (f) This section does not prohibit a contribution ~~or independent expenditure~~ by an entity  
34 that:

- 35 (1) Has as an express purpose promoting social, educational, or political ideas  
36 and not to generate business income;
- 37 (2) Does not have shareholders or other persons which have an economic  
38 interest in its assets and earnings; and
- 39 (3) Was not established by a business corporation, by an insurance company, by  
40 a business entity, including, but not limited to, those chartered under Chapter  
41 55, Chapter 55A, Chapter 55B, or Chapter 58 of the General Statutes, by a  
42 professional association, or by a labor union and does not receive substantial  
43 revenue from such entities. Substantial revenue is rebuttably presumed to be  
44 more than ten percent (10%) of total revenues in a calendar year.

45 (g) If a political committee has as its only purpose accepting contributions and making  
46 expenditures to influence elections, and that political committee incorporates as a nonprofit  
47 corporation to shield its participants from liability created outside this Chapter, that political  
48 committee is not considered to be a corporation for purposes of this section. Incorporation of a  
49 political committee does not relieve any individual, person, or other entity of any liability, duty,  
50 or obligation created pursuant to any provision of this Chapter. To obtain the benefits of this  
51 subsection, an incorporating political committee must state exactly the following language as

1 the only purpose for which the corporation can be organized: "to accept contributions and make  
2 expenditures to influence elections as a political committee pursuant to G.S. 163-278.6(14)  
3 only." No political committee shall do business as a political committee after incorporation  
4 unless it has been certified by the State Board of Elections as being in compliance with this  
5 subsection."

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

7 "(15) To establish a process for determination as to whether communication is an  
8 expenditure, independent expenditure, or electioneering communication  
9 prior to the airing or distribution of that communication when so requested  
10 by an individual or person producing a communication. The responsibility  
11 for the determination may be delegated to the Executive Director. If the  
12 responsibility is delegated to the Executive Director, the process established  
13 by the State Board shall require a written determination by the Executive  
14 Director to include stated findings and an opportunity for immediate appeal  
15 to the State Board of the determination by the Executive Director."

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

17 "(7) "Print media" means billboards, cards, newspapers, newspaper inserts,  
18 magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor  
19 advertising facilities. A "mass mailing" is a mailing with more than 500  
20 pieces."

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

22 **"§ 163-278.39. Basic disclosure requirements for all political campaign advertisements.**

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

- 27 (1) It bears the legend or includes the statement: "Paid for by \_\_\_\_\_ [Name of  
28 candidate, candidate campaign committee, political party organization,  
29 political action committee, referendum committee, individual, or other  
30 sponsor]." In television advertisements, this disclosure shall be made by  
31 visual legend.
- 32 (2) The name used in the labeling required in subdivision (1) of this subsection  
33 is the name that appears on the statement of organization as required in  
34 G.S. 163-278.7(b)(1)-G.S. 163-278.7(b)(1) or G.S. 163-278.12C(a).
- 35 (3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.
- 36 (4) The sponsor states in the advertisement its position for or against a ballot  
37 measure, provided that this subdivision applies only if the advertisement is  
38 made for or against a ballot measure.
- 39 (5) In a print media advertisement supporting or opposing the nomination or  
40 election of one or more clearly identified candidates, the sponsor states  
41 whether it is authorized by a candidate. The visual legend in the  
42 advertisement shall state either "Authorized by [name of candidate],  
43 candidate for [name of office]" or "Not authorized by a candidate." This  
44 subdivision does not apply if the sponsor of the advertisement is the  
45 candidate the advertisement supports or that candidate's campaign  
46 committee.
- 47 (6) In a print media advertisement that identifies a candidate the sponsor is  
48 opposing, the sponsor discloses in the advertisement the name of the  
49 candidate who is intended to benefit from the advertisement. This  
50 subdivision applies only when the sponsor coordinates or consults about the

1 advertisement or the expenditure for it with the candidate who is intended to  
2 benefit.

3 (7) In a print media advertisement supporting or opposing the nomination or  
4 election of one or more clearly identified candidates that is an independent  
5 expenditure, the sponsor discloses the names of the individuals or persons  
6 making the five largest donations to the sponsor within the six-month period  
7 prior to the purchase of the advertisement if those donations are required to  
8 be reported under G.S. 163-278.12.

9 (8) In a print media advertisement that is an electioneering communication, the  
10 sponsor discloses the names of the individuals or person making the five  
11 largest donations to the sponsor within the six-month period prior to the  
12 purchase of the advertisement if those donations are required to be reported  
13 under G.S. 163-278.12C.

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

16 (b) Size Requirements. – In a print media advertisement covered by subsection (a) of  
17 this section, the height of all disclosure statements required by that subsection shall constitute  
18 at least five percent (5%) of the height of the printed space of the advertisement, provided that  
19 the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a  
20 newspaper insert, the total height of the disclosure statement need not constitute five percent of  
21 the printed space of the advertisement if the type of the disclosure statement is at least 28 points  
22 in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure  
23 requirement of this section applies only to one page, fold, or face. In a television advertisement  
24 covered by subsection (a) of this section, the visual disclosure legend shall constitute 32 scan  
25 lines in size. In a radio advertisement covered by subsection (a) of this section, the disclosure  
26 statement shall last at least two seconds, provided the statement is spoken so that its contents  
27 may be easily understood.

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

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

35 "**§ 163-278.39A. Disclosure requirements for television and radio advertisements**  
36 **supporting or opposing the nomination or election of one or more clearly**  
37 **identified candidates.**

38 (a) Expanded Disclosure Requirements. – Any political ~~campaign~~ advertisement on  
39 radio or television shall comply with the expanded disclosure requirements set forth in this  
40 section. To the extent that it provides the same information required by G.S. 163-278.39, a  
41 statement made pursuant to this section satisfies the requirements of G.S. 163-278.39 for the  
42 same advertisement.

43 (b) Disclosure Requirements for Television. –

44 (1) Candidate advertisements on television. – Television advertisements  
45 purchased by a candidate or by a candidate campaign committee supporting  
46 or opposing the nomination or election of one or more clearly identified  
47 candidates shall include a disclosure statement spoken by the candidate and  
48 containing at least the following words: "I am (or "This is \_\_\_\_") [name of  
49 candidate], candidate for [name of office], and I (or "my campaign \_\_\_\_")  
50 sponsored this ad." This subdivision applies only to an advertisement that  
51 mentions the name of, shows the picture of, transmits the voice of, or

- 1 otherwise refers to an opposing candidate for the same office as the  
2 sponsoring candidate.
- 3 (2) Political party advertisements on television. – Television advertisements  
4 purchased by a political party organization supporting or opposing the  
5 nomination or election of one or more clearly identified candidates shall  
6 include a disclosure statement spoken by the chair, executive director, or  
7 treasurer of the political party organization and containing at least the  
8 following words: "The [name of political party organization] sponsored this  
9 ad opposing/supporting [name of candidate] for [name of office]." The  
10 disclosed name of the political party organization shall include the name of  
11 the political party as it appears on the ballot.
- 12 (3) Political action committee advertisements on television. – Television  
13 advertisements purchased by a political action committee supporting or  
14 opposing the nomination or election of one or more clearly identified  
15 candidates shall include a disclosure statement spoken by the chief executive  
16 officer or treasurer of the political action committee and containing at least  
17 the following words: "The [name of political action committee] political  
18 action committee sponsored this ad opposing/supporting [name of candidate]  
19 for [name of office]." The name of the political action committee used in the  
20 advertisement shall be the name that appears on the statement of  
21 organization as required in G.S. 163-278.7(b)(1).
- 22 (4) Advertisements on television by an individual. – Television advertisements  
23 purchased by an individual supporting or opposing the nomination or  
24 election of one or more clearly identified candidates shall include a  
25 disclosure statement spoken by the individual and containing at least the  
26 following words: "I am [individual's name], and I sponsored this  
27 advertisement opposing/supporting [name of candidate] for [name of  
28 office]."
- 29 (5) Advertisements on television by another sponsor. – Television  
30 advertisements purchased by a sponsor other than a candidate, a candidate  
31 campaign committee, a political party organization, a political action  
32 committee, or an individual which supports or opposes the nomination or  
33 election of one or more clearly identified candidates shall include a  
34 disclosure statement spoken by the chief executive or principal decision  
35 maker of the sponsor and containing at least the following words: "[Name of  
36 sponsor] sponsored this ad." If the sponsor is a corporation that has the  
37 purpose of promoting social, educational, or political ideas, the  
38 advertisement shall also include a legible listing on the screen indicating that  
39 the viewer may obtain additional information on the sponsor and the  
40 sponsor's donors from the appropriate board of elections, containing at least  
41 the following words: "For donor information contact [Name of board of  
42 elections with whom information filed]."
- 43 (6) All advertisements on television. – In any television advertisement described  
44 in subdivisions (1) through (4) of this subsection, an unobscured, full-screen  
45 picture containing the disclosing individual, either in photographic form or  
46 through the actual appearance of the disclosing individual on camera, shall  
47 be featured throughout the duration of the disclosure statement.
- 48 (7) Electioneering communications on television. – Television advertisements  
49 purchased by an individual that are electioneering communications shall  
50 include a disclosure statement spoken by the individual and containing at  
51 least the following words: "I am [individual's name], and I sponsored this

1 advertisement opposing/supporting [name of candidate] for [name of  
2 office]." Television advertisements purchased by a sponsor other than a  
3 candidate, a candidate campaign committee, a political party organization, a  
4 political action committee, or an individual that are electioneering  
5 communications shall include a disclosure statement spoken by the chief  
6 executive or principal decision maker of the sponsor and containing at least  
7 the following words: "[Name of sponsor] sponsored this ad." If the sponsor  
8 is a corporation that has the purpose of promoting social, educational, or  
9 political ideas, the advertisement shall also include a legible listing on the  
10 screen indicating that the viewer may obtain additional information on the  
11 sponsor and the sponsor's donors from the appropriate board of elections,  
12 containing at least the following words: "For donor information contact  
13 [Name of board of elections with whom information filed]."

14 (c) Disclosure Requirements for Radio. –

- 15 (1) Candidate advertisements on radio. – Radio advertisements purchased by a  
16 candidate or by a candidate campaign committee supporting or opposing the  
17 nomination or election of one or more clearly identified candidates shall  
18 include a disclosure statement spoken by the candidate and containing at  
19 least the following words: "I am (or "This is\_\_\_\_") [name of candidate],  
20 candidate for [name of office], and this ad was paid for (or "sponsored" or  
21 "furnished") by [name of candidate campaign committee that paid for the  
22 advertisement]." This subdivision applies only to an advertisement that  
23 mentions the name of, transmits the voice of, or otherwise refers to an  
24 opposing candidate for the same office as the sponsoring candidate.
- 25 (2) Political party advertisements on radio. – Radio advertisements purchased by  
26 a political party organization supporting or opposing the nomination or  
27 election of one or more clearly identified candidates shall include a  
28 disclosure statement spoken by the chair, executive director, or treasurer of  
29 the political party organization and containing at least the following words:  
30 "This ad opposing/supporting [name of candidate] for [name of office] was  
31 paid for (or "sponsored" or "furnished") by [name of political party]." The  
32 disclosed name of the political party organization shall include the name of  
33 the political party as it appears on the ballot.
- 34 (3) Political action committee advertisements on radio. – Radio advertisements  
35 purchased by a political action committee supporting or opposing the  
36 nomination or election of one or more clearly identified candidates shall  
37 include a disclosure statement spoken by the chief executive officer or  
38 treasurer of the political action committee and containing at least the  
39 following words: "This ad opposing/supporting [name of candidate] for  
40 [name of office] was paid for (or "sponsored" or "furnished") by [name of  
41 political action committee] political action committee." The name of the  
42 political action committee used in the advertisement shall be the name that  
43 appears on the statement of organization as required by  
44 G.S. 163-278.7(b)(1).
- 45 (4) Advertisements on radio by an individual. – Radio advertisements purchased  
46 by an individual supporting or opposing the nomination or election of one or  
47 more clearly identified candidates shall include a disclosure statement  
48 spoken by the individual and containing at least the following words: "I am  
49 [individual's name], and this ad opposing/supporting [name of candidate] for  
50 [name of office] was paid for (or "sponsored" or "furnished") by me."

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

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

33 (d) Placement of Disclosure Statement in Television and Radio Advertisements. – In  
34 advertisements on television, a sponsor may place the disclosure statement required by this  
35 section at any point during the advertisement, except if the duration of the advertisement is  
36 more than five minutes, the disclosure statement shall be made both at the beginning and end of  
37 the advertisement. The sponsor may provide the oral disclosure statement required by this  
38 section at the same time as the visual disclosure required under the Communications Act of  
39 1934, 47 U.S.C. §§ 315 and 317, is shown. But any visual disclosure legend shall be at least ~~32~~  
40 ~~scan lines~~ four percent (4%) of vertical picture height in size. For advertisements on radio, the  
41 placement of the oral disclosure statement shall comply with the requirements of the  
42 Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

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

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



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

8 (1) Any plaintiff candidate in a statewide race in an action under this section  
9 shall complete and file a Notice of Complaint Regarding Failure to Disclose  
10 on Television or Radio Campaign Advertising with the State Board of  
11 Elections after the airing of the advertisement but no later than the first  
12 Friday after the Tuesday on which the election occurred. Candidates in  
13 nonstatewide races may file the notice during the same time period with one  
14 county board of elections within the electoral area in which they are  
15 candidates. The timely filing of this notice preserves the candidate's right to  
16 bring an action in superior court any time within 90 days after the election.  
17 A candidate shall bring the civil action in the county where the candidate  
18 filed the notice.

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

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

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

31 b. After the notice or attempted notice, the advertisement continued to  
32 be aired.

33 The treble damages shall be calculated from the date on which the  
34 return-receipt notice was accepted or rejected by a defendant sponsoring  
35 candidate or candidate committee, political party organization, political  
36 action committee, or individual. The plaintiff candidate or candidate  
37 committee shall send a copy of any return-receipt mailing to the relevant  
38 board of elections as provided in subdivision (1) of this subsection within  
39 five days after the notice is returned to the possession of the candidate or  
40 candidate committee.

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

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

49 (g) Relation to the Communications Act of 1934. – Television advertisements by a  
50 sponsor supporting or opposing the nomination or election of one or more clearly identified  
51 candidates shall comply with the oral disclosure requirements under State law in this section.

1 Those advertisements shall also comply with disclosure requirements under the  
2 Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content  
3 of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and  
4 317, and G.S. 163-278.39(a)(1). The size of those visual legends is determined by  
5 G.S. 163-278.39(b), which satisfies requirements under the Communications Act of 1934, 47  
6 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements  
7 under State law in this section incorporate the content requirements under the Communications  
8 Act of 1934, 47 U.S.C. §§ 315 and 317.

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

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

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

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

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

18 "(5a) Electioneering communication. – As defined in ~~G.S. 163-278.80~~ and  
19 ~~G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period  
20 beginning 30 days before absentee ballots become available for a primary  
21 and ending on primary election day and during the period 60 days before  
22 absentee ballots become available for a general election and ending on  
23 general election day."

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

25 "(6a) Electioneering communication. – As defined in ~~G.S. 163-278.80~~ and  
26 ~~G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period  
27 beginning 30 days before absentee ballots become available for a primary  
28 and ending on primary election day and during the period 60 days before  
29 absentee ballots become available for a general election and ending on  
30 general election day."

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

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

- 36 a. Anything for which fair market value, or face value if shown, is paid  
37 by the covered person or legislative employee.
- 38 b. Commercially available loans made on terms not more favorable  
39 than generally available to the general public in the normal course of  
40 business if not made for the purpose of lobbying.
- 41 c. Contractual arrangements or commercial relationships or  
42 arrangements made in the normal course of business if not made for  
43 the purpose of lobbying.
- 44 d. Academic or athletic scholarships based on the same criteria as  
45 applied to the public.
- 46 e. ~~Campaign contributions~~ Anything of value properly received and  
47 reported as required under Article 22A of Chapter 163 of the General  
48 Statutes.
- 49 f. Expressions of condolence related to a death of an individual, sent  
50 within a reasonable time of the death, if the expression is one of the  
51 following:

1. A sympathy card, letter, or note.
2. Flowers.
3. Food or beverages for immediate consumption.
4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars (\$200.00) per death per donor."

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

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

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

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

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

- (1) If no candidate for a single office receives a majority of the votes cast, the candidate receiving the highest number of votes shall be declared elected unless the candidate receiving the second highest number of votes requests a runoff election in accordance with subsection (c) of this section. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.
- (2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared elected unless some one or all of the candidates equal in number to the positions remaining to be filled and having the second highest number of votes shall request a runoff election in accordance with subsection (c) of this section. In the runoff election to elect candidates for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and demanding a runoff election shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election."

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

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

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