

2010 Campaign Finance Manual

A guide for ensuring compliance.
*Issued by the Campaign Finance Office
of the NC State Board of Elections*

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Definitions

The following list defines many of the terms used in the Campaign Reporting Act. Refer to the definitions of these terms when cited in the information that will follow. These definitions will remain constant unless it is indicated in the specific information presented. Keep in mind, these are summaries. If you wish to read the exact definition as it appears in the statutes, refer to the Campaign Reporting Act in the Appendix of this publication. Some of the terms included are not specifically defined in the Act, but are useful in understanding the language that follows.

Advertisement	Any message appearing in the print media, on television, or on the radio that constitutes a contribution or expenditure under Article 22A.
Aggregated Non-Media Expenditures	Operating expenditures that are individually under \$50 and are not for media expenses. These expenditures may be reported in an aggregated amount. The treasurer shall account for and report expenditures of \$50 or less each, the amounts, dates, and the purposes for which individual expenditures were made.
Board	Refers to the State Board of Elections with respect to candidates and other political committees for State, legislative, judicial and multi-county district offices, and also statewide referenda. If the reference is to candidates and other political committees for county and municipal offices, the term refers to the county or municipal board of elections. The term would, in addition, refer to county or municipal board of elections with respect to local referenda.
Broadcasting Station	Refers to any commercial radio or television station or community antenna radio or television station.
Business Entity	Refers to any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
Candidate	Refers to any individual who has filed a notice of candidacy for public office or a petition requesting

	<p>to be a candidate. It also refers to an individual who has been certified as a nominee of a political party for a vacancy or has qualified by an authorized means as a candidate. An individual is also considered a candidate for purposes of this Article if they have made a public announcement of a definite intent to run for public office in a particular election. In addition, an individual is considered a candidate for the purposes of this Article even if they have not met any of the above criteria, but have received funds, made payments, or consented for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual’s nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. An individual continues to have “candidate” status for the purposes of this Article if they continue to receive contributions to repay loans or cover a deficit or make expenditures to satisfy obligations from an election already held. A candidate may be partisan or nonpartisan.</p>
<p>Candidate Campaign Committee</p>	<p>Any political committee organized by or under the direction of a candidate.</p>
<p>Candidate-Specific Communications</p>	<p>Any broadcast, cable, satellite communication, mass mailing or phone bank made during an even-numbered year after the final date on which a Notice of Candidacy can be filed for the office through the day on which the general election is conducted that refers to a clearly identified candidate for a statewide office or the General Assembly and is targeted to the relevant electorate. Please see the section on Candidate-Specific Communications for more information on the disclosure requirements.</p>
<p>Communications media or Media</p>	<p>Refers to broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, radio ads, TV ads, sound-truck advertising, airplane streamers, portable signs, pamphlets, fliers, mass mailings (over 500 pieces), cards, or any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences.</p>

Contribute or Contribution	Refers to any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge, or subscription of money or anything of value whatsoever to a candidate, political committee, political party committee, or referendum committee. This also refers to any contract, agreement, or other obligation to make a contribution. An expenditure forgiven by a person or entity to whom it is owed is also considered a “contribution.” The term “contribution” does not include an “independent expenditure”.
Corporation	Refers to any corporation doing business under either domestic or foreign charter. This would include any corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner, or member of a joint venture.
Day	Refers to a calendar day.
Election Cycle	It is the period from January 1 after an election for a particular office until December 31 after the election for the next term of the same office. For example, the election cycle for a candidate running for Governor in 2012 would be from January 1, 2009 until December 31, 2012. When referring to several offices, the term means the period from January 1 of an odd-numbered year through December 31 of the next even-numbered year.
Election	Unless otherwise indicated, an election refers to any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy. This does not refer to any local or statewide referendum.
Electioneering Communication	Any broadcast, cable, satellite communication, mass mailing or phone bank that is made 60 days before a general election or 30 days before a primary election that refers to a clearly identified candidate for a statewide office or the General Assembly and is targeted to the relevant electorate. Please see the section on Electioneering Communications for more information on the disclosure requirements.
Expend or Expenditure	Any purchase, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or

	subscription of money or anything of value whatsoever, any contract, agreement or other obligation to make an expenditure to support or oppose the nomination, election, or passage of a ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity.
Express Advocacy	That language which supports or opposes clearly identified candidates and is subject to disclosure requirements.
Independent Expenditure	An expenditure that is made to support or oppose one or more clearly identified candidates without consultation or coordination with a candidate or agent of a candidate that the expenditure supports, or whose opponent's nomination or election the expenditure opposes.
Individual	Means a single individual or more than one individual.
In-Kind Contribution	A contribution to a committee that is not monetary in nature. It must be reported on required disclosure reports. The contribution may be a good or service. For example, an individual or other committee may contribute "cups and napkins" to a committee for an event. The "fair market value" of the cups and napkins would be the amount of the contribution and would count toward the maximum contribution limitation.
Issue Advocacy	That language which does not support or oppose clearly identified candidates, but has the sole purpose to provide education on issues. Issue advocacy is not generally subject to disclosure requirements or regulations. However, please refer to the sections discussing Electioneering Communications and Candidate-Specific Communications for information about disclosure on communications that may be considered issue advocacy.
Legal Expense Fund	A separate fund established to fund a legal action or potential legal action taken by or against an elected officer in that elected officer's official capacity. An elected officer includes any individual serving in or seeking public office.

	Please refer to the Candidate Committee section for more information on the requirements for Legal Expense Funds.
Legend	The disclosure information (“paid for by...” statement) that must appear on all advertisements that constitutes a contribution or expenditure.
Non-monetary gift	If a committee contributes a “service or good” that the receiving committee would consider an “in-kind” contribution, the contributing committee should designate that expenditure as a “non-monetary gift.” The value of the “gift” will not be calculated in expenditures. It will be disclosed on a separate form (CRO-1330).
Political Committee	<p>A combination of two or more individuals that accepts anything of value to make contributions or expenditures and has one or more of the following characteristics:</p> <p>Is controlled by a candidate;</p> <p>Is a political party or executive committee of a political party or is controlled by a political party;</p> <p>Created by a corporation, business entity, insurance company, labor union, or professional association;</p> <p>Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates; supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified party. Contributions to referendum committees are not considered when making the determination if an entity meets the presumption of a political committee.</p>
Political Party	Any political party organized and operating in this State, whether or not that party is recognized.
Print Media	Billboards, cards, newspapers, newspaper inserts, magazines, mass mailings (over 500 pieces), pamphlets, fliers, periodicals, and outdoor advertising facilities.
Radio	Any radio broadcast station that is subject to the provisions of 47 USC 315 and 317.

Referendum	Any question, issue, or act referred to a vote of the people of the entire State by the General Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. This includes any type of municipal, county, or special district referendum.
Referendum committee	A combination of two or more individuals or entities, or two or more business entities that have a major purpose to support or oppose the passage of any referendum on the ballot. An entity remains a referendum committee as long as it receives contributions or makes expenditures or maintains assets. It may cease to exist when it winds up its operations, disposes of its assets, and files a final report. Referendum committees may accept contributions from businesses with no limitations. However, referendum committees may not contribute to any other political committee.
Scan line	Standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.
Sponsor	A candidate, candidate committee, political party organization, political action committee, individual or other entity that purchases an advertisement.
Television	Any television broadcast station, cable, television system, wireless cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 USC 315 and 317.
Treasurer	An individual appointed by a candidate, political committee, or referendum committee to assume the responsibilities of the requirements of the Campaign Reporting Act. This individual may not be the spouse of a candidate. No individual registered as a lobbyist under Chapter 120C can serve as a treasurer or assistant treasurer for candidates for the General Assembly or Constitutional office of the State. All treasurers are mandated to receive training provided by the staff of the State Board.
Unobscured	Means only the printed material that may appear on the television screen is a visual disclosure

	statement required by law, and nothing is blocking the view of the disclosing person's face.
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Campaign Finance Office Publications and Trainings

The Campaign Finance Office of the State Board of Elections continues to make great strides at educating the public on campaign finance disclosure. Several educational and informational tools are available to the public on a wide variety of issues related to campaign finance disclosure compliance. Visit our website at www.sboe.state.nc.us to view our Campaign Finance section.

Ensuring that all treasurers are properly trained on their obligations and responsibilities is a top priority of the Campaign Finance Office. Treasurers are mandated by law to receive treasurer training within three months of appointment and once every four years. This training can be received in-person or by completing an interactive training session online. In-person training sessions are held at the office of the State Board of Elections and at regional locations around the State. Our website has a schedule of all upcoming training sessions. To sign up for either an in-person training session or the online training, go to our website, or send an e-mail to campaign.reporting@ncsbe.gov, or call our office at 919-733-7173. In addition to being mandatory, these training sessions offer invaluable information to a treasurer or any campaign staff member on completing and maintaining the required documentation for required reports, current campaign finance rules and regulations, and any recent changes in the law. The in-person training sessions provide the opportunity for questions and sharing of various ways to accomplish compliance while effectively fundraising.

Our website provides public access to all campaign finance disclosure reports for every candidate filing with the State Board of Elections. Reports filed with a county board of elections can be found at the county board office. All correspondence with committees is also available for inspection. Our website provides downloadable and editable forms for committees that file on paper and free software is available for committees that file electronically. Upcoming events and report deadlines are also featured on our website.

Anyone needing assistance on a campaign finance disclosure issue should contact our office in order to speak to or arrange an appointment with a campaign finance staff member. The staff of the Campaign Finance Office is always eager to assist you.

Candidate Committees

General Requirements

Appointment of Treasurer

All candidates for any elected office in North Carolina must have an appointed treasurer who resides in North Carolina. NCGS § 163-278.7 states that a candidate shall appoint a treasurer and, under verification, report the name and address of the treasurer to the appropriate Board. A candidate may appoint himself or any individual, *with the exception of the candidate's spouse*, to serve as treasurer. Candidates for election to the General Assembly or Constitutional offices of the State cannot appoint a registered lobbyist as their treasurer. Failure to appoint a treasurer will result in the candidate being named treasurer and assuming all the duties and responsibilities of a treasurer including being subject to all penalties and sanctions provided by the North Carolina General Statutes. The appointment of treasurer is made on the *Certification of Treasurer* form (**CRO-3100**). Candidates for statewide office, North Carolina General Assembly, and all judicial offices shall file their *Certification of Treasurer* form with the Campaign Finance Office of the North Carolina State Board of Elections. Candidates for county and municipal elected offices should file their *Certification of Treasurer* form with their County Board of Elections office.

An individual appointed as treasurer has several vital responsibilities. This individual must maintain all financial records of the "Committee". These records should document every transaction of the "Committee", including all documentation supporting all contributions and expenditures. In addition, the treasurer is responsible for the timely filing of all required reports. Failure to file reports in a timely manner results in penalties incurred by the "Committee". Further, the treasurer is responsible for the accuracy of the reports and for compliance with the campaign finance laws.

In the event a candidate needs to change treasurers, a new *Certification of Treasurer* form must be completed within 10 days of the change in addition to amending the *Statement of Organization*. Failure to complete this form in a timely manner could result in penalties for a late report filing.

Mandatory Treasurer Training

Every treasurer of a North Carolina political committee must receive treasurer training from the State Board within three months of

appointment and again once every four years. This training requirement can be accomplished by attending in-person training at the office of the State Board of Elections or a regional location across the State or by completing online training available on the website of the State Board of Elections (www.sboe.state.nc.us).

Treasurers that do not complete the mandatory training requirement in a timely manner are not eligible to sign required disclosure reports. And, only candidates, treasurers, or assistant treasurers that have been trained are eligible to sign disclosure reports. Reports that have been submitted by a treasurer that has not received training are subject to penalties.

A complete listing of training session dates can be found on our website. Please call our office at 919-733-7173 to sign up for an upcoming treasurer training session.

Organizing the Committee

One of the biggest misconceptions candidates have when running for office concerns their political committee. Many candidates do not believe they have a committee. If you are seeking elective office in the State of North Carolina and you are a candidate for a statewide, legislative, judicial, county, or municipal office, you have a committee. A candidate committee may only be the candidate, but it is a committee and therefore, subject to the regulations of candidate political committees.

To organize the committee, candidates must file the *Certification of Treasurer* form (**CRO-3100**) along with the *Statement of Organization-Candidate Committee* form (**CRO-2100A**) and the *Certification of Financial Account Number Information* form (**CRO-3500**). Every candidate must complete these three forms within 10 days of receiving or spending any money in support of the candidate's candidacy or within 10 days of filing for office, whichever occurs first. A candidate committee must have a unique name, meaning there are no other active or inactive committees registered in North Carolina with the same name. The Campaign Finance Office of the State Board of Elections or the county board of elections office can assist you with assuring your committee name is unique.

All money must be maintained in a separate bank account(s) used exclusively by the committee. No committee funds shall be commingled with any other funds.

Candidates running for a county office, municipal office, local school board office, soil and water conservation district board of supervisors, or sanitary district board must also determine if they intend to receive and/or spend over \$1,000 on the campaign during the election cycle. Keep in mind, any personal money a candidate spends counts toward the \$1,000 limit. If the candidate determines they will NOT spend over \$1,000 for the election cycle (refer to the definition of election cycle in the GLOSSARY), a *Certification of Threshold* form (**CRO-3600**) must be completed. This Certification states that the candidate will not receive and/or spend over \$1,000 for the election cycle. Please refer to the section on Threshold requirements for specific information regarding this status. **Candidates running for any office NOT listed above are NOT eligible to file a Certification of Threshold form.**

If the candidate does intend to spend over \$1,000, an **Organizational Report** would be required with the *Statement of Organization-Candidate Committee* (**CRO-2100A**), *Certification of Financial Account Number Information* (**CRO-3500**) and the *Certification of Treasurer* (**CRO-3100**). The **Organizational Report** is the first required disclosure report for committees not certifying under the Threshold. The contents of the **Organizational Report** would include any contributions received or expenditures made in support of the candidacy. The **Organizational Report** must include the *Disclosure Report Cover* form (**CRO-1000**) and the *Detailed Summary* form (**CRO-1100**). If contributions have been received or expenditures made, additional forms containing those transactions would be included with this report. A helpful hint to remember when completing disclosure reports using our paper forms is that the *Detailed Summary* form (**CRO-1100**) is your roadmap. If you list a dollar amount on any line of that form, you will need to complete the form that is listed beside the dollar amount. If you use our electronic software, this process is even simpler. Once these steps have been taken, the committee is ready to begin. As stated earlier, all Organizational documents discussed in this section are due within the first 10 days of organizing, of making a public announcement of an intent to run, of receiving a contribution or making an expenditure or filing for office, whichever is earlier.

Reporting Forms

If your committee has not filed under the Threshold, disclosure reports will be required. These reports can either be filed on paper or electronically. There are numerous forms in our paper disclosure filing system. Most committees will use less than 10 of these forms, but there is a form for most all transactions, if needed. For committees desiring to

keep all records in an electronic format, the Campaign Finance Office of the State Board of Elections has developed electronic software to keep these records and complete the required disclosure reports. This software is discussed in the next section.

If you decide to use the paper forms, the following list contains the forms that could be used by your committee. These forms can be found on our website at www.sboe.state.nc.us. Some of the forms in our system are specific to certain types of committees. Candidate Committees should only submit from the list provided below:

- CRO-2100A Statement of Organization-Candidate Committee
- CRO-2100F Statement of Organization-Legal Expense Fund
- CRO-2110 Statement of Organization Addendum
- CRO-2120 Additional Committee Funds
- CRO-3100 Certification of Treasurer
- CRO-3200 Certification of Inactive Status
- CRO-3300 Certification to Return to Active Status
- CRO-3400 Certification to Close Committee
- CRO-3500 Certification of Financial Account Number Information
- CRO-3600 Certification of Threshold
- CRO-3700 Certification of Incorporated Political Committee
- CRO-3900 Designation of Committee Funds
- CRO-1000 Disclosure Report Cover
- CRO-1010 Disclosure Report Cover Addendum
- CRO-1100 Detailed Summary
- CRO-1205 Aggregated Contributions from Individuals
- CRO-1210 Contributions from Individuals
- CRO-1215 Contributions to be Reimbursed
- CRO-1220 Contributions from Political Party Committees
- CRO-1230 Contributions from Other Political Committees
- CRO-1240 Refunds and Reimbursements to the Committee
- CRO-1250 Other Receipt Sources
- CRO-1310 Disbursements
- CRO-1315 Aggregated Non-Media Expenditures

- CRO-1320 Refunds and Reimbursements from the Committee
- CRO-1330 Non-Monetary Gifts Given to Other Committees
- CRO-1410 Loan Proceeds
- CRO-1420 Loan Repayments
- CRO-1430 Outstanding Loans
- CRO-1440 Forgiven Loans
- CRO-1510 In-kind Contributions
- CRO-1610 Debts and Obligations Owed by the Committee
- CRO-1620 Debts and Obligations Owed to the Committee
- CRO-1720 Account Transfers Within the Committee
- CRO-6100 Loan Proceeds Statement
- CRO-6200 Forgiven Loan Statement
- CRO-6300 Contribution from a Business Account Statement
- CRO-2220 48 Hour Notice

Electronic Filing

Electronic filing is an alternative for all candidate committees and a requirement for some candidate committees. The Campaign Finance Office of the State Board of Elections has spent the past several years re-designing and upgrading the electronic filing software in an effort to provide committees with improved campaign finance management and disclosure tools. The FREE software includes an audit feature that will identify possible violations and discrepancies before the report is filed. In addition, the software tracks all contributors entered into the system and reports only those contributors required by law to be reported. Software training is available at the State Board of Elections office in Raleigh. Regional trainings will also be offered beginning in 2010. Dates and locations will be posted on our website at www.sboe.state.nc.us.

Candidates for statewide office that show a cumulative total for the election cycle in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans must file electronically with the Campaign Finance Office of the State Board of Elections. In addition, a candidate committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office must also file electronically. Candidate

committees required to file electronically but failing to do so are subject to penalties.

For more information on filing disclosure reports electronically, please contact our office at 919-733-7173 or visit our website.

Contributions

Contributions are anything of value that support or oppose the nomination or election of one or more clearly identified candidates. Contributions may be monetary or non-monetary. Loans, pledges, gifts, proceeds or sales of services, in-kind transfers, use of any supplies, office machinery, vehicles, aircraft, office space or related services, goods, or personal or real property are all contributions. All contributions are subject to the regulations of the North Carolina General Statutes. A contribution that is made by the candidate or candidate's family would still be subject to the same disclosure as any other contribution received by the candidate.

It is important to be extremely familiar with the limitations and prohibitions on contributions. The following information is for all candidates other than judicial candidates. Judicial candidate contribution limitations are discussed separately in this portion of the Manual.

Limitations for non-judicial candidates

A candidate may not accept and a contributor may not give more than four thousand dollars (\$4,000) per election. Therefore, if there is a primary for the office of the candidate and a general election, the candidate may receive four thousand dollars (\$4,000) through the day of the primary and four thousand dollars (\$4,000) from the day after the primary through the general election. If the candidate is on the ballot in a second primary, the candidate would be entitled to receive an additional four thousand dollars (\$4,000) from the day after the primary through the day of the second primary. If a candidate is not on the ballot for the second primary, they would not be entitled to the additional four thousand dollars (\$4,000). A candidate, the candidate's spouse, parents, brothers and sisters may contribute unlimited amounts to the candidate and are not subject to the limitations. Any national, state, district or county executive committee of any political party (recognized under N.C.G.S. §163-96) is exempt from the contribution limitations as well.

Prohibitions

It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to a candidate. This includes donating items to committees for fundraisers and sponsoring holes at golf tournaments.

Political committees not registered with North Carolina are also prohibited from contributing.

A registered political committee, other than those exempt political party committees, may contribute four thousand dollars (\$4,000) per election to non-judicial candidate committees.

Registered referendum committees that received any contribution from a corporation, labor union, insurance company, business entity, or professional association or have received contributions in excess of the contribution limitations for PACs may not contribute to a candidate committee.

Anonymous contributions are prohibited in North Carolina. This includes any funds raised for which contributor contact information is not obtained, such as “pass-the-hat” collections. Contributions made in the name of another are also prohibited. In addition, all checks or money orders must contain a specific designation of the intended recipient chosen by the contributor.

All contributions in excess of \$50 must be made by check, draft, money order, credit card, debit, or other noncash method.

Any such contributions received shall be turned over to the Board for deposit into the NC Civil Penalty and Forfeiture Fund.

Reporting Contributions

All contributions must be reported. If the candidate committee has certified to remain under the one thousand (\$1,000) threshold, all contributions must be documented and maintained internally. Upon the request of the Campaign Finance Office of the State Board of Elections, these documents would be required to be produced by the committee.

Committees not filing under the threshold are required to report all contributions. All contributors contributing over \$50 for the election must be reported with the name of the contributor, the address and occupational information.

If an individual exceeds the \$50 for the election, the treasurer would be required to disclose the name of that individual on the next required disclosure report and all contributions made by that individual since the date of the last election or primary election. Additionally, contributions received at a fundraiser from the sale of items such as dinner tickets, t-shirts, buttons, or hotdogs would also require disclosure and count toward an individual's \$50 threshold for identity reporting.

Contributions received from an individual that have not exceeded \$50 since the day after the last election or primary election does not require the reporting of the name, address or occupational information of the individual. The date, amount, payment method, account, and election sum-to-date shall be disclosed for all contributions, regardless of amount.

In-kind contributions are reported as any other contribution. The contributor should provide the committee with a statement setting forth the fair market value of the in-kind contribution. The contribution is reported on the appropriate form (*Contributions from Individuals (CRO-1210)* or *Contributions from Political Party Committees (CRO-1220)* or *Contributions from Other Political Committees (CRO-1230)* or *Other Receipt Sources (CRO-1250)*) and also on the *In-Kind Contributions* form (**CRO-1510**). The reporting on the *In-Kind Contributions* form (**CRO-1510**) serves to balance the account. Since the in-kind contribution is not actually monetary, when it is reported as a receipt it inflates the balance of the account. The *In-Kind Contribution* form balance is recorded in the expenditure portion of the reporting. Therefore, the amount of the receipt is subtracted from the total, balancing the account and providing accurate disclosure as to the amount of money in the account.

Special Provisions for Judicial Candidates

Appellate judicial candidate contribution limitations

In 2003, the North Carolina General Assembly passed legislation that provided for a change in the contribution limitations for candidates for

the North Carolina Court of Appeals and the North Carolina Supreme Court. Until that time, all candidates for all offices were subject to the \$4,000 contribution limitation per contributor per election. The change decreased the contribution maximum for candidates for the North Carolina Court of Appeals and the North Carolina Supreme Court from \$4,000 per contributor per election to \$1,000 per contributor per election with the exception of family contributors who may contribute \$2,000 per election. The definition of family contributor for these candidates differs from the definition of family contributor for other offices. A family contributor for a candidate for the North Carolina Court of Appeals or North Carolina Supreme Court is defined as:

the candidate's parent,
the candidate's child,
the candidate's brother, or
the candidate's sister.

The candidate or the candidate's spouse may make unlimited contributions to the candidate campaign committee.

PLEASE NOTE: Candidates for appellate judicial seats should read the section in this manual devoted to the NC Public Campaign Fund for appellate judicial candidates. Additional requirements and restrictions apply to candidates that choose to participate in the public funding program. Even candidates that choose not to participate in the public funding program should be aware of additional requirements and possible restrictions that may apply to them if they are opposed by a candidate that is certified in the public funding program.

District and Superior Court Judicial candidate contribution limitations

Candidates for superior and district court judge seats may not accept and contributors to their candidate campaign committees may not give more than \$1,000 per contributor per election. The candidate, candidate's spouse, parents, brothers and sisters may make unlimited contributions to their candidate campaign committee.

Currently, candidates for superior and district court judge seats are not eligible to participate in public funding programs.

Ban on Lobbyist contributions

No lobbyist may make a contribution at any time to a member of the General Assembly or Council of State or a candidate that has been elected or appointed to the General Assembly or Council of State. Additionally, no lobbyist may collect contributions from multiple contributors, take possession of such multiple contributions, or transfer or deliver the collected multiple contributions to the intended recipient. This common practice of “bundling” is not permitted for lobbyists with respect to contributions intended for members of the General Assembly or Council of State. This includes candidates for the General Assembly and Council of State that have been elected or appointed but have not taken office.

A lobbyist that has filed a notice of candidacy may make a contribution to their own candidate campaign committee. Additionally, the lobbyist could take possession of multiple contributions intended for their own candidate campaign committee without violating the ban.

Any questions about the ban on lobbyist contributions should be directed to the Campaign Finance Office of the State Board of Elections.

Limitations on Fund-raising during Legislative Sessions

Since there is a complete ban on lobbyist contributions to members of the General Assembly and members of the Council of State, the fundraising limitations during regular sessions of the General Assembly are practically only relevant to candidates for the General Assembly and Council of State and political committees that employ a lobbyist.

Specifically, a political committee that employs or contracts with or whose parent entity employs or contracts with a NC registered lobbyist (“limited contributor”) may not contribute to a member or candidate for the General Assembly or member or candidate for the Council of State (“limited contributee”) while the General Assembly is in “regular session.” A “regular session” of the General Assembly is defined as the date set by law or resolution that the General Assembly convenes until the General Assembly adjourns sine die or recesses or adjourns for more than 10 days.

- A “limited contributee” may not solicit from a “limited contributor” any contribution to be made to a “limited contributee” or any other candidate, officeholder, or political committee.

- A “limited contributee” may not solicit a third party to directly or indirectly solicit a contribution from a “limited contributor” **or** have the third party relay to the “limited contributor” the solicitation of the “limited contributee”.
 - No “limited contributor” shall make or offer to make a contribution to a “limited contributee”.
 - No “limited contributor” shall make a contribution to any candidate, officeholder, or political committee and direct or request that contribution to be made to a “limited contributee.”
 - No “limited contributor” shall transfer anything of value to any entity and direct that entity to use what was transferred as a contribution to a “limited contributee.”
 - No “limited contributee” or the real or purported agent of a “limited contributee” prohibited from solicitation shall accept a contribution from a “limited contributor.”
 - No “limited contributor” shall solicit a contribution from any individual or political committee on behalf of a “limited contributee.” This does not apply to a “limited contributor” soliciting a contribution on behalf of a political party executive committee if the solicitation is solely for a separate segregated fund kept by the political party limited to use for activities that are not candidate-specific, including generic voter registration and get-out-the-vote efforts, pollings, mailings, and other general activities and advertising that do not refer to a specific individual candidate.
- ❖ A contribution is “**made**” during regular session if the check or other instrument is dated during the session, or if the check or other instrument is delivered to the “limited contributee” during session, or if the “limited contributor” pledges during the session to deliver the check or other instrument at a later time.
 - ❖ A contribution is “**accepted**” during regular session if the check or other instrument is dated during the session, or if the “limited contributee” receives the check or other instrument during session and does not return it within 10 days.
 - ❖ A violation of these limitations is a Class 2 misdemeanor.
 - ❖ The exception to these limitations is that the limitations on fundraising do not apply to a “limited contributee” during the three weeks prior to a second primary where the “limited contributee” will be a candidate on the ballot.

Expenditures

Candidates are no longer able to spend their campaign funds for any purpose. There are only nine permitted purposes for which campaign funds can be used. These permitted purposes are as follows:

1. Expenditures resulting from the campaign for public office by the candidate or candidate’s campaign committee. The general rule for determining whether an expenditure is for this purpose is to determine if the expenditure would have been made absent of the campaign for public office. If the answer is “yes” to that question, then the expenditure should not be made.

2. Expenditures resulting from holding public office. As discussed above, if the expenditure would have been made absent the candidate holding public office, then the candidate should not use campaign funds to make the expenditure. If the expenditure would only be made due to the fact that the candidate is holding office, then the expenditure would be permitted.
3. Contributions to an organization described in section 170(c) of the Internal Revenue Code, provided that the candidate, the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
4. Contributions to a national, State, or district or county committee of a political party or a caucus of the political party.
5. Contributions to another candidate or candidate's campaign committee.
6. To return all or a portion of a contribution to the contributor.
7. Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article imposed by the Board of Elections or a court of competent jurisdiction.
8. Payment to the Escheat Fund established by Chapter 116B of the General Statutes.
9. Donations to a legal expense fund established pursuant to Chapter 163, Article 22M of the General Statutes. Donations are limited to \$4,000 per calendar year.

All expenditures must be reported. Any expenditure that is made for media purposes must be paid by check and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure and the specific purpose of the expenditure. In addition, the amount this payee has been paid since the date of the last election must also be reported. All expenditures that are over \$50 may not be paid with cash and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure, and the specific purpose of the expenditure. Election totals for the payee must also be included. Expenditures for non-media purposes that are less than \$50 may be shown as an aggregate amount and may be made in cash. The name of the payee is not required to be disclosed. However, the date of the expenditure, the specific amount of each expenditure, and the purpose of each expenditure must be included.

If a committee has something of value that is not monetary and they make an in-kind contribution to another entity, the committee must reflect this expenditure on the *Non-Monetary Gifts Given to Other Committees* form (**CRO-1330**). This amount is not included in any totals on the summary sheet, but is contained in the informational section of the *Detailed Summary* form (**CRO-1100**).

Committee treasurers should keep receipts for all expenditures on file. This is not a requirement, but can be helpful during audits.

Designation of Committee Funds

Contributions made to a candidate committee do not become a part of the personal estate of the candidate. The candidate may file with the Board a *Designation of Committee Funds* form (**CRO-3900**) which allows the candidate to designate how any remaining campaign funds will be spent in the event of the death or incapacity of the candidate. The candidate may only designate the funds to be spent in compliance with the nine purposes discussed above. All outstanding debts and obligations will be paid before any funds are disbursed pursuant to the designation. If no designation has been filed with the Board, all funds remaining after debts and obligations have been paid will be paid over to the North Carolina Escheat Fund.

Loans

Candidate Committees may receive loans from individuals and other entities not prohibited from making contributions. Loans are contributions and are subject to the same limitations as contributions. If a Candidate Committee receives a loan there is specific paperwork that must be completed. The treasurer of the Candidate Committee must have the “lender” complete and sign the *Loan Proceeds Statement* (**CRO-6100**). This statement requires the “lender” to provide the name of the lending institution and all guarantors responsible for the loan, if applicable. The loan amount from an individual, other than the candidate, the candidate’s spouse, parents, or siblings, must not exceed four thousand dollars (\$4,000) for non-judicial candidates and one thousand dollars (\$1,000) for judicial candidates. If the “lender” has previously made a contribution, the loan amount totaled with the previous contribution may not exceed four thousand dollars (\$4,000) for non-judicial candidates and one thousand dollars (\$1,000) for judicial candidates for that election. Any guarantor on the loan may not make any contribution that, totaled with the amount of the loan they have guaranteed, would exceed four thousand dollars (\$4,000) for non-judicial candidates and one thousand dollars (\$1,000) for judicial candidates.

A loan may only be forgiven if the lending institution has been paid in full for the amount of the loan and no other entity is owed for the loan. A “lender” wishing to forgive the loan would need to complete the *Forgiven Loan Statement* (**CRO-6200**). If a Candidate Committee has a loan that has not been repaid or forgiven, the Committee may not close until the entire amount of the loan has been satisfied.

Debts and Obligations

All committees must document all debts and obligations owed by the “Committee” and those debts and obligations owed to the “Committee”. If a “Committee” receives a good or service for which they did not pay at the time, the date the good is received and/or the service rendered would be reflected as the date of the debt on the *Debts and Obligations Owed by the Committee* form (**CRO-1610**). Failure to provide this information is a failure to provide disclosure. The definition of expenditure includes a pledge, contract, promise or other obligation to make an expenditure. Therefore, the date of such pledge, contract, or promise is the date that should be reflected on the *Debts and Obligations Owed by the Committee* form.

A “Committee” may not close until all debts and obligations have been paid by the “Committee”. Any debt or obligation that is not paid would be considered a contribution to the “Committee”. Contributions over the limitation and from prohibited contributors would result in violations by the “Committee”.

Threshold Requirements

Candidate Committees for county offices, municipal offices, local school board offices, soil and water conservation district board of supervisors offices, or sanitary district board offices have the option of being exempt from the reporting requirements if they certify that during the entire election cycle they will neither raise nor spend more than one thousand dollars (\$1,000) to further the candidate’s campaign. This certification is made on the *Certification of Threshold* form (**CRO-3600**). After this certification has been filed, the Candidate Committee is not required to file disclosure reports. However, the Candidate Committee is required to keep detailed records of all contributions and expenditures and to produce such records upon request of the Campaign Finance Office of the State Board of Elections.

Candidate Committees that make the certification and exceed the one thousand dollar (\$1,000) limitation during the election cycle must immediately file an amended *Certification of Threshold* form (**CRO-3600**). In addition, all contributions and expenditures from the origination date of the Committee or the beginning of the election cycle through the end of the current reporting period must be reported on the next required disclosure report. Filing under the threshold only exempts the Candidate Committee from reporting requirements, not requirements to keep internal records of all Committee transactions.

Threshold status must be renewed at the beginning of every election cycle by filing a new *Certification of Threshold* form (**CRO-3600**). Otherwise, it is assumed that the candidate committee is not under the threshold for the new election cycle and reports will be required to be timely filed.

Legal Expense Funds

Candidates are entitled to establish a separate fund for the purpose of funding an existing or potential legal action taken by or against the elected officer in that elected officer's capacity. A candidate that accepts donations for this purpose must establish and register this fund unless the only donations received for this purpose are from the candidate, candidate's spouse, parents, and siblings. Otherwise, legal expense funds are subject to disclosure and restrictions.

A candidate may not create more than one legal expense fund for the same legal action or for legal actions arising out of the same set of transactions and occurrences. However, a candidate may keep a legal expense fund open in order to raise donations for subsequent legal actions and potential legal actions.

Contractual arrangements, such as an arrangement for liability insurance, made in the normal course of business and not made for the purpose of lobbying are not considered "donations". These contractual arrangements do not by themselves require the candidate to create a legal expense fund. However, if a legal expense fund is required to be established by virtue of the acceptance of other reportable donations, these contractual arrangements shall be reported as expenditures.

Appointment of Treasurer

Every legal expense fund shall appoint a treasurer, under verification, including the name and address of that individual. If a treasurer resigns or is removed, the legal expense fund shall appoint a successor within 10 calendar days of the vacancy and certify the name and address of the successor to the appropriate board of elections. A legal expense fund should be established at the same board of elections where other campaign finance reports are filed.

Detailed Accounts

Just as with other disclosure reports, the treasurers for a legal expense fund shall keep detailed accounts, current within seven days after the date of receiving a donation or making an expenditure, of all donations

received and all expenditures made by or on behalf of the legal expense fund. Donations from the candidate or the candidate's family would be reported in the same manner as other donations.

The treasurer shall provide disclosure of all banks and depositories used for a legal expense fund, including all account numbers. An agent of the State Board is authorized to inspect these accounts in the course of any investigation.

Treasurers must show best efforts have been made to obtain all required information in order for there not to be a basis for criminal prosecution or the imposition of civil penalties.

Disclosure Reports

As treasurers are required to keep detailed accounts, they are also required to file disclosure reports that detail the activities of the legal expense fund. Within 10 calendar days of the creation of the legal expense fund, organizational paperwork must be filed with the appropriate board of elections. As stated above, please file this paperwork with the same office that all other campaign finance reports are filed.

The organizational paperwork includes the following:

- **Statement of Organizations-Legal Expense Fund (CRO-2100F)**
- **Certification of Treasurer-Legal Expense Fund (CRO-3100B)**
- **Certification of Financial Account Information (CRO-3500)**
- **Organizational Report**
 - ❖ Disclosure Report Cover (CRO-1000)
 - ❖ Detailed Summary (CRO-1100)
 - ❖ Any other reporting forms to provide disclosure of Fund activities.

All reports filed require the treasurer to sign the reports as true and correct and shall be certified as true and correct to the best of the treasurer's knowledge. The certification shall be treated as under oath and any individual making a certification under Article 22M knowing the information to be untrue is guilty of a Class I felony.

After the filing of the organizational paperwork, the legal expense fund will be required to make quarterly filings in both even and odd numbered years. Reports are due within 10 business days after the end of the calendar quarter.

For the most part, the same disclosure forms are used for providing disclosure of the legal expense fund as is required for providing disclosure of other political committees. However, there are some differences in the disclosure requirements.

- Donations:
 - All donations must be reported. However, the name, address and occupational information is only required for donors that have made donations that are in excess of \$50 for the calendar quarter. If a donor has contributed \$50 or less during that calendar quarter, only the dates and amounts of those donations are required to be disclosed.
- Expenditures:
 - All expenditures must be reported. The disclosure must include the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The report should also include sum-to-date totals. The payee shall be the entity that is obligated to make the expenditure and a specific itemization of the goods and services purchased must be provided, including the detailed purpose for the expenditures.
- Loans:
 - All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

Restrictions

Legal expense funds are subject to limitations with respect to both donations and expenditures. Review the following restrictions carefully before accepting donations or making expenditures.

- Donation limitations:
 - All donations in excess of \$50 must be in the form of a check, draft, money order, credit card charge, debit or other noncash method that can be subject to written verification. No noncash method can be received unless it contains a specific designation by the donor of the identity of the intended recipient.
 - No legal expense fund shall accept donations from a corporation, labor union, insurance company, professional association, or business entity in excess of \$4,000 per calendar year. Additionally, any donation made by an affiliated entity of any of these donors, when added with the initial affiliated entity, must not exceed \$4,000 per calendar year. **For example**, if ABC Corporation makes a \$2,000 donation to the John Doe Legal Expense Fund and its sister company DEF Corporation makes a \$3,000 donation. An excessive donation in the amount of \$1,000 has been made to the John Doe Legal Expense Fund. This concept is true for affiliated labor unions, insurance companies, professional associations and business entities. Disclosure of these donations should be provided on the *Legal Expense Fund-Other Receipt Sources* form (**CRO-1270**).

- No legal expense fund shall accept donations from a candidate or candidate campaign committee in excess of \$4,000 per calendar year.
- Permitted uses of legal expense funds:
 - **The elected officer's campaign cannot be funded from a legal expense fund.**
 - A legal expense fund may only use its funds for reasonable expenses actually incurred by the elected officer in relation to a legal action or potential legal action brought by or against the elected officer in that elected officer's official capacity.
- Upon closing a legal expense fund, the treasurer may only distribute the remaining funds to the following:
 - The Indigent Persons' Attorney Fee Fund under Article 36 of Chapter 7A of the General Statutes.
 - The North Carolina State Bar for the provision of civil legal services for indigents.
 - Payments to an organization described in section 170(c) of the Internal Revenue Code of 1986, provided that the candidate or the candidate's spouse, children, parents, or siblings are not employed by the organization.
 - To return all or a portion of a donation to the donor.
 - Payment to the Escheat Fund established by Chapter 116B of the General Statutes.

Please direct any questions about a legal expense fund to the State Board of Elections.

Notices of Reports Due

Upon registration of a Candidate Committee, all committees that have not filed under the one thousand dollar (\$1,000) threshold will receive notices for all reports due. All notices are sent to the current treasurer of record. Candidate Committees that change treasurers without notifying the appropriate Board of Elections office may not receive notices of reports being due. In addition, failure to provide notification of a treasurer change is a violation of disclosure law.

Candidates that have established a separate Legal Expense Fund will receive a separate notice for reports due. The reporting schedule for Legal Expense Funds is different than the standard quarterly reporting schedule. These reports are due 10 business days after the end of each calendar quarter in both even and odd numbered years.

Reports to be Certified/Filed Timely

All disclosure reports must be certified by the treasurer as true and accurate. No longer are disclosure reports required to be notarized. An

original signature below the certification statement contained on the *Disclosure Report Cover Sheet (CRO-1000)* serves as certification that the report being submitted is true and accurate as filed.

Disclosure reports are considered filed timely if they are hand delivered by the due date of the report or postmarked by the due date of the report. Disclosure reports must be filed at the appropriate Board of Elections office. Failure to do so could result in penalties for late filings. If a report only bears a meter mark, the date the report is received in the appropriate Board of Elections office will be the date filed. If that date is after the due date, the report will be considered late. All reports not postmarked on or before the due date or not received by the appropriate Board of Elections office on or before the due date will be considered late and assessed penalties for late filing.

Any treasurer that intentionally files a report late in order to conceal contributions or expenditures is subject to the assessment of civil penalties and the cost of any investigation. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

The Campaign Finance Office of the State Board of Elections **strongly encourages** treasurers to send all disclosure reports by certified mail. In the event a postmark is not legible or a report is lost in the mail, the certified mail receipt will serve as proof of timely filing.

Civil Penalties

Candidate Committees may receive penalties for late-filed reports. A candidate committee's report that does not affect a statewide election would be penalized at \$50 per day not to exceed \$500. A report is considered to affect a statewide election if the Committee made any contributions to or in support of a statewide candidate or received any contributions from a statewide candidate. If the Candidate Committee did file a report that affected a statewide election, the Committee would be penalized at a rate of \$250 per day not to exceed \$10,000. In calculating penalties, only days the office is open are counted toward the penalty amount.

Failure to pay assessed penalties could result in a committee's active status being terminated. Once a committee's status is terminated, the committee is not eligible to receive contributions or make expenditures.

Inactive Status

Candidate Committees that do not desire to disburse all funds nor intend on receiving any contributions or making expenditures for a period of time may file a *Certification of Inactive Status* form (**CRO-3200**). By filing this form, the Committee certifies that they will remain inactive (not receiving any contributions or making any expenditures) until a *Certification to Return to Active Status* form (**CRO-3300**) is filed. During the time the Committee is Inactive, disclosure reports are not required to be filed. If at some point the Committee intends on receiving contributions or making expenditures, the *Certification to Return to Active Status* form should be completed and all subsequent disclosure reports should be filed.

Closing the Committee

Candidates that wish to close their committee may do so at any time during the election cycle. In order to close the committee, all funds in the bank account must be disbursed. If the Candidate Committee filed under the \$1,000 threshold, the only other documentation required would be the *Certification to Close Committee* form (**CRO-3400**). If the Candidate Committee did not file under the \$1,000 threshold, a “Final Report” will be required in addition to the *Certification to Close Committee* form (**CRO-3400**). The “Final Report” reflects all activities starting with the first day not covered on the last report and ending on the day the last disbursement is made or if the decision to close the committee occurred after the last disbursement, the date of the decision would be the end of the reporting period.

After the required paperwork has been filed by the Committee with the appropriate board of elections office, the treasurer will consider the Committee “closed pending” until a letter has been sent by the Campaign Finance Office of the State Board of Elections stating that a final audit has been conducted and the Committee is considered “closed”. The treasurer should maintain all records for the next two years after the conclusion of the election cycle.

State Candidate Committee

Reporting Schedule

This schedule is for all candidates in statewide elections, candidates for the North Carolina House and Senate, candidates for District and Superior Court seats, and candidates for District Attorney.

Within 10 days

Organizational Report

- Statement of Organization (CRO-2100A)
- Certification of Treasurer (CRO-3100)
- Certification of Financial Account Information (CRO-3500)
- Candidate Designation of Committee Funds (CRO-3900)
- Disclosure Report Cover (CRO-1000)
- Detailed Summary (CRO-1100)
- Contributions forms as applicable (CRO-1205 thru CRO-1250)
- Disbursement forms as applicable (CRO-1310 thru CRO-1330)
- Loan forms, if applicable (CRO-1410 thru CRO-1440)
- In-kind Contributions forms, if applicable (CRO-1510)
- Debts and Obligations forms, if applicable (CRO-1610 thru CRO-1620)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

July 30, 2010

2010 Mid Year Semi-Annual Report

- Required from all registered committees NOT actively participating in the 2010 elections
- Covers from last report thru June 30

- October 25, 2010** **2010 Third Quarter Plus Report**
- The third quarter plus 17 days preceding the General Election
 - Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru October 16
- October 17 – November 2, 2010** **48 Hour Reports**
- Required when contributions of \$1,000 or more are received
 - Due within 48 hours of receiving such a contribution
- November 2, 2010** **GENERAL ELECTION**
- January 11, 2011** **2010 Fourth Quarter Report**
- Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru December 31
- January 28, 2011** **2010 Year End Semi-Annual Report**
- Required from all registered committees NOT actively participating in the 2010 elections
 - Covers from July 1, 2010 thru December 31, 2010
- Final Report**
- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the Campaign Finance Office of the State Board of Elections at 506 North Harrington Street, Raleigh, NC 27603.

The mailing address is: PO Box 27255
Raleigh, NC 27611-7255

Telephone: 919-733-7173

County Candidate Committees

Reporting Schedule

This schedule is for all candidates in county elections.

Within 10 days

Organizational Report

- Statement of Organization (CRO-2100A)
- Certification of Treasurer (CRO-3100)
- Certification of Financial Account Information (CRO-3500)
- Candidate Designation of Committee Funds (CRO-3900)
- Disclosure Report Cover (CRO-1000)
- Detailed Summary (CRO-1100)
- Contributions forms as applicable (CRO-1205 thru CRO-1250)
- Disbursement forms as applicable (CRO-1310 thru CRO-1330)
- Loan forms, if applicable (CRO-1410 thru CRO-1440)
- In-kind Contributions forms, if applicable (CRO-1510)
- Debts and Obligations forms, if applicable (CRO-1610 thru CRO-1620)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

July 30, 2010

2010 Mid Year Semi-Annual Report

- Required from all registered committees NOT actively participating in the 2010 elections
- Covers from last report thru June 30

- October 25, 2010** **2010 Third Quarter Plus Report**
- The third quarter plus 17 days preceding the General Election
 - Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru October 16
- October 17 – November 2, 2010** **48 Hour Reports**
- Required when contributions of \$1,000 or more are received
 - Due within 48 hours of receiving such a contribution
- November 2, 2010** **GENERAL ELECTION**
- January 11, 2011** **2010 Fourth Quarter Report**
- Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru December 31
- January 28, 2011** **2010 Year End Semi-Annual Report**
- Required from all registered committees NOT actively participating in the 2010 elections
 - Covers from July 1, 2010 thru December 31, 2010
- Final Report**
- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the candidate's local board of elections office.

Refer to our website (www.sboe.state.nc.us) for the address of all county board of elections offices.

Municipal Candidate Committees

Reporting Schedule

This schedule is for municipal committees that are not participating in 2010 elections. **If a municipal committee makes contributions or expenditures concerning state or county offices in 2010, then that committee must file reports on the schedule for State or County Candidate Committees as listed on the previous pages.**

- | | |
|-------------------------|--|
| January 29, 2010 | 2009 Year End Semi-annual Report <ul style="list-style-type: none">• Required from all registered committees and elected officials• Covers from July 1 thru December 31, 2009 |
| July 30, 2010 | 2010 Mid Year Semi-Annual Report <ul style="list-style-type: none">• Required from all registered committees NOT actively participating in the 2010 elections• Covers from last report thru June 30 |
| January 28, 2011 | 2010 Year End Semi-Annual Report <ul style="list-style-type: none">• Required from all registered committees NOT actively participating in the 2010 elections• Covers from July 1, 2010 thru December 31, 2010
Final Report <ul style="list-style-type: none">• Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed |

Where do I file these reports?

All reports should be filed with the candidate's local board of elections office.

Refer to our website (www.sboe.state.nc.us) for the address of all county board of elections offices.

Reports from Elected Officials

Any elected official that maintains a “booster fund”, “support fund”, “unofficial office account”, or any other account or source used in support of an individual’s candidacy for elective office or in support of an individual’s duties while in elective office shall report the activities of that account on a Mid Year Semi-Annual Report and the Year End Semi-Annual Report every year. All money supporting these activities will be considered contributions and expenditures and are subject to reporting. Refer to the **Candidate Reporting Schedule** for specific dates.

Joint Candidate Fundraisers

Candidates often make the decision to hold fundraisers with other candidates. This is an acceptable practice as long as certain instructions are followed. The following information is for candidates for state or local office. If a state or local candidate wishes to hold a joint fundraiser with a federal candidate, the FEC should be contacted at 1-800-424-9530 for further instructions.

Requirements

A joint candidate fundraiser must be treated as a separate political committee with a separate bank account. Therefore, within 10 days of a decision to hold a fundraiser or receipt of the first contribution, a *Statement of Organization-Joint Candidate Committee (CRO-2100B)* must be completed. The *Statement of Organization-Joint Candidate Committee (CRO-2100B)* must contain:

- The name and office of each candidate involved;
- The percentage of proceeds that each candidate will receive, and
- The name and address of the treasurer of the joint fund-raising committee.

If all candidates involved file their individual campaign finance disclosure reports with a county board of elections office, these forms will also be filed with that county board of elections office. If one or more candidates file their campaign disclosure reports with the State Board of Elections, these forms will be filed with the State Board of Elections.

Candidates participating in a joint fundraiser should realize they continue to be limited to \$4,000 per contributor per election (for non-judicial candidates). Therefore, if a contributor had previously given the candidate’s committee a contribution for \$2,000 and then wishes to contribute to the fundraiser, the amount of the contribution may not exceed \$2,000 for the candidate that has already received \$2,000 from

that contributor. Treasurers for the individual candidate committees must be certain that contribution limitations have not been exceeded between the individual candidate committee and their percentage of the joint candidate committee. The treasurer of the joint candidate committee must provide the treasurer of each participating candidate with a list of contributors and the percentage of each contributor's contribution to that candidate. It will then be the responsibility of the individual candidate treasurer to ensure contributions limitations are being met.

Political Party Committees

General Requirements

Appointment of Treasurer

All political party committees must have an appointed treasurer who resides in North Carolina. NCGS § 163-278.7 states that a political committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the appropriate Board. The appointment of treasurer is made on the *Statement of Organization-Party Committee* form (**CRO-2100C**). All political party committees should file this form with the Campaign Finance Office of the North Carolina State Board of Elections. The *Statement of Organization-Party Committee* form (**CRO-2100C**) is the **only** form that can be used by a political party committee to officially change the treasurer. The treasurer listed on the last filed *Statement of Organization-Party Committee* form will be the treasurer of record and is considered responsible for the compliance of the “Committee”. Political Party committees often change treasurers at least every two years. It is extremely important for the “Committee” to complete the amended *Statement of Organization-Party Committee* within 10 days of the change of treasurer. Failure to do so could result in late report penalties.

An individual appointed as treasurer has several vital responsibilities. This individual must maintain all financial records of the “Committee”. These records should document every transaction of the “Committee”, including all documentation supporting all contributions and expenditures. In addition, the treasurer is responsible for the timely filing of all required reports. Failure to file reports in a timely manner results in penalties incurred by the “Committee”. Further, the treasurer is responsible for the accuracy of the reports and for compliance with campaign finance laws.

Mandatory Treasurer Training

Every treasurer of a North Carolina political committee must receive treasurer training from the State Board within three months of appointment and again once every four years. This training requirement can be accomplished by attending in-person training at the office of the State Board of Elections or a regional location across the State or by completing online training available on the website of the State Board of Elections (www.sboe.state.nc.us).

Treasurers that do not complete the mandatory training requirement in a timely manner are not eligible to sign required disclosure reports. Only candidates, treasurers, or assistant treasurers that have been trained are eligible to sign disclosure reports. Reports submitted by a treasurer that has not received training are subject to penalties.

A complete listing of training session dates can be found on our website. Please call our office at 919-733-7173 to sign up for an upcoming treasurer training session.

Organizing the Committee

Within 10 days of a political party committee organizing, they must register with the Campaign Finance Office of the State Board of Elections. The appointment of the treasurer is the first step, along with the completion of the *Statement of Organization-Party Committee (CRO-2100C)* and the *Certification of Financial Account Number Information (CRO-3500)*. Every political party committee must complete these two forms within 10 days of receiving or spending any money. A political party committee must have a unique name, meaning there are no other active or inactive committees registered in North Carolina with the same name. The Campaign Finance Office of the State Board of Elections or the county board of elections office can assist you with assuring that your committee name is unique.

All money must be maintained in a separate bank account(s) used exclusively by the committee. No committee funds shall be commingled with any other funds.

After completing the *Statement of Organization-Party Committee* and the *Certification of Financial Account Number Information* forms, the party committee must determine if they intend to receive and/or spend over \$1,000 during the election cycle. If the party committee determines that they will NOT spend over \$1,000 for the election cycle (refer to the definition of election cycle in the GLOSSARY), a *Certification of Threshold* form (**CRO-3600**) must be completed. This Certification states that the party committee will not receive and/or spend over \$1,000 for the election cycle. Please refer to the section on Threshold requirements for specific information regarding this status.

If the party committee does intend to raise or spend over \$1,000, an **Organizational Report** is required with the *Statement of Organization-Party Committee (CRO-2100C)* and the *Certification of Financial Account Number Information (CRO-3500)*. The **Organizational Report** is the first

required disclosure report for committees not certifying under the Threshold. The contents of the **Organizational Report** would include any contributions received and/or expenditures made within the first ten days of the Committee. The **Organizational Report** must include the *Disclosure Report Cover* form (**CRO-1000**) and the *Detailed Summary* form (**CRO-1100**). If contributions have been received or expenditures made, additional forms containing those transactions would be included with this report. A helpful hint to remember when completing disclosure reports using our paper forms is that the *Detailed Summary* form (**CRO-1100**) is your roadmap. If you list a dollar amount on any line of that form, you will need to complete the form that is listed beside the dollar amount. If you use our electronic software, this process is even simpler. Once these steps have been taken, the committee is ready to begin. As stated earlier, all Organizational documents discussed in this section are due within the first 10 days of receiving a contribution or making an expenditure or registering the committee, whichever is earlier.

Reporting Forms

If your committee has not filed under the Threshold, disclosure reports will be required. These reports can either be filed on paper or electronically. There are numerous forms in our paper disclosure filing system. Most committees will use less than 10 of these forms, but there is a form for almost all transactions, if needed. For committees desiring to keep all records in an electronic format, the Campaign Finance Office of the State Board of Elections has developed electronic software to keep these records and complete the required disclosure reports. This software is discussed in the next section.

If you decide to use the paper forms, the following list contains the forms that could be used by your committee. These forms can be found on our website at www.sboe.state.nc.us. Some of the forms in our system are specific to certain types of committees. Political Party Committees should only submit from the list provided below:

- CRO-2100C Statement of Organization-Party Committee
- CRO-2110 Statement of Organization Addendum
- CRO-2120 Additional Committee Funds
- CRO-2600 Political Party Executive Committee Exempt Sales Plan
- CRO-3200 Certification of Inactive Status
- CRO-3300 Certification to Return to Active Status
- CRO-3400 Certification to Close Committee

CRO-3500 Certification of Financial Account Number Information
CRO-3600 Certification of Threshold
CRO-3700 Certification of Incorporated Political Committee
CRO-1000 Disclosure Report Cover
CRO-1010 Disclosure Report Cover Addendum
CRO-1100 Detailed Summary
CRO-1205 Aggregated Contributions from Individuals
CRO-1210 Contributions from Individuals
CRO-1215 Contributions to be Reimbursed
CRO-1220 Contributions from Political Party Committees
CRO-1230 Contributions from Other Political Committees
CRO-1240 Refunds and Reimbursements to the Committee
CRO-1250 Other Receipt Sources
CRO-1265 Exempt Purchase Price Sales
CRO-1310 Disbursements
CRO-1315 Aggregated Non-Media Expenditures
CRO-1320 Refunds and Reimbursements from the Committee
CRO-1330 Non-Monetary Gifts Given to Other Committees
CRO-1410 Loan Proceeds
CRO-1420 Loan Repayments
CRO-1430 Outstanding Loans
CRO-1440 Forgiven Loans
CRO-1510 In-Kind Contributions
CRO-1610 Debts and Obligations Owed by the Committee
CRO-1620 Debts and Obligations Owed to the Committee
CRO-1720 Account Transfers Within the Committee
CRO-6100 Loan Proceeds Statement
CRO-6200 Forgiven Loan Statement
CRO-6300 Contribution from a Business Account Statement
CRO-2220 48 Hour Notice

Electronic Filing

Electronic filing is an alternative for all political party committees and a requirement for some political party committees. The Campaign Finance Office of the State Board of Elections has spent the past several years re-designing and upgrading the electronic filing software in an effort to provide committees with improved campaign finance management and disclosure tools. The FREE software includes an audit feature that will identify possible violations and discrepancies before the report is filed. In addition, the software tracks all contributors entered into the system and reports only those contributors required by law to be reported. Software training is available at the State Board of Elections office in Raleigh. Regional trainings will also be offered in 2010. Dates and locations will be posted on our website at www.sboe.state.nc.us.

State, district, county, or precinct executive committees of a political party that make contributions or independent expenditures that affect contests for statewide office and that cumulatively are in excess of \$5,000 for the election cycle must file electronically with the Campaign Finance Office of the State Board of Elections. Political party committees required to file electronically but failing to do so are subject to penalties.

For more information on filing disclosure reports electronically, please contact our office at 919-733-7173 or visit our website.

Contributions

Contributions are anything of value that support or oppose the nomination or election of one or more clearly identified candidates. Contributions may be monetary or non-monetary. Loans, pledges, gifts, proceeds or sales of services, in-kind transfers, use of any supplies, office machinery, vehicles, aircraft, office space or related services, goods, or personal or real property are all contributions. All contributions are subject to the regulations of the North Carolina General Statutes.

It is important to be extremely familiar with the limitations and prohibitions on contributions. The following information is for political party committees.

Limitations

- National, State, district and county executive committees of NC recognized parties
 - These political party committees are not subject to the four thousand dollar (\$4,000) per election contribution limitation that other political committees and subordinate political party committees face. In fact, National, State, district and county executive committees of political parties recognized under NCGS § 163-96 have no contribution limitations. A contributor may give any amount to these political party committees and the political party committee may give any amount to any other North Carolina political committee with the exception of state judicial appellate candidate committees (candidates for NC Court of Appeals or NC Supreme Court). Political party executive committees are limited to contributing only \$1,000 per election to these committees.
- Subordinate political party committees (such as County Republican Men's Club or County Young Democrats) and those not recognized by NCGS §163-96
 - These committees may not accept and a contributor may not give more than four thousand dollars (\$4,000) per election. Therefore, if there is a primary and a general election, the "Committee" may receive four thousand dollars (\$4,000) through the day of the primary and four thousand dollars (\$4,000) from the day after the primary through the general election. If there is a second primary in which the "Committee" is involved (contributing), the "Committee" would be entitled to receive an additional four thousand dollars (\$4,000) from the day after the primary through the day of the second primary. If the "Committee" is not contributing to candidates involved in a second primary, the "Committee" would not be entitled to the additional four thousand dollars (\$4,000).

Prohibitions

It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to any political party committee.

Political committees not registered with North Carolina are also prohibited from contributing to political party committees.

Registered referendum committees that received any contribution from a corporation, labor union, insurance company, business entity, or professional association may not contribute to a political party committee.

Anonymous contributions are prohibited in North Carolina. This includes any funds raised for which contributor contact information is not obtained, such as “pass-the-hat” collections. Contributions made in the name of another are also prohibited. In addition, all checks or money orders must contain a specific designation of the intended recipient chosen by the contributor.

All contributions in excess of \$50 must be made by check, draft, money order, credit card, debit, or other noncash method.

Any such contributions received shall be turned over to the Board for deposit into the NC Civil Penalty and Forfeiture Fund.

Reporting Contributions

All contributions must be reported. If the political party committee has certified to remain under the one thousand dollar (\$1,000) threshold, all contributions must be documented and maintained internally. Upon the request of the Campaign Finance Office of the State Board of Elections, these documents would be required to be produced by the committee. Committees not filing under the threshold are required to report all contributions.

If an individual exceeds the \$50 for the election, the treasurer would be required to disclose the name of that individual on the next required disclosure report and all contributions made by that individual since the date of the last election or primary election. Additionally, contributions

received at a fundraiser from the sale of items such as dinner tickets, t-shirts, buttons, or hotdogs would also require disclosure and count toward an individual's \$50 threshold for identity reporting.

Contributions received from an individual that have not exceeded \$50 since the day after the last election or primary election does not require the reporting of the name, address or occupational information of the individual. The date, amount, payment method, account, and election sum-to-date shall be disclosed for all contributions, regardless of amount.

In-kind contributions are reported as any other contribution. The contributor should provide the committee with a statement setting forth the fair market value of the in-kind contribution. The contribution is reported on the appropriate form (*Contributions from Individuals (CRO-1210)* or *Contributions from Political Party Committees (CRO-1220)* or *Contributions from Other Political Committees (CRO-1230)* or *Other Receipt Sources (CRO-1250)*) and also on the *In-Kind Contributions* form (CRO-1510). The reporting on the *In-Kind Contributions* form (CRO-1510) serves to balance the account. Since the in-kind contribution is not actually monetary, when it is reported as a receipt it inflates the balance of the account. The *In-Kind Contribution* form balance is recorded in the expenditure portion of the reporting. Therefore, the amount of the receipt is subtracted from the total, balancing the account and providing accurate disclosure as to the amount of money in the account.

Political party **executive** committees (not subordinate committees) are eligible to raise contributions through an Exempt Purchase Price Sale ("Exempt Sale"). An Exempt Sale is a sale of goods or services, such as t-shirts, buttons, and food items, in which:

- The price for each item is reasonably close to its market price; and
- The total purchases for each contributor is \$50 or less; and
- The treasurer submits a sales plan (form CRO-2600) to the Executive Director of the State Board of Elections for approval prior to conducting the sale; and
- The total amount raised from all sales under all plans by the committee does not exceed \$10,000 per election cycle.

Under an Exempt Sale, treasurers are not required to obtain the name, address, and employer information for each contributor. Instead, the treasurer records the total number of each item sold and the amount

raised. The proceeds from exempt sales are disclosed on form CRO-1265.

Expenditures

There are very few restrictions on how a party committee may spend its money. However, all expenditures must be reported, along with the specific purpose of the expenditure. The limitations on expenditures exist mainly in contributing to other political committees. National, State, district, and county executive committees of political parties recognized by NCGS § 163-96 have no limitations on how much they can contribute to other political committees with the exception of state judicial appellate candidate committees and the candidate committees of superior and district court judge candidates where they may only contribute \$1,000 per election. Subordinate political party committees and those not recognized under NCGS § 163-96 must adhere to the four thousand dollar (\$4,000) contribution limitation when contributing to other political committees.

Note: Subordinate political party committees may only contribute \$1,000 per election to state judicial appellate candidate committees and superior and district court judge candidate committees.

All expenditures must be reported. Any expenditure that is made for media purposes must be paid by a verifiable form of payment and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure and the specific purpose of the expenditure. In addition, the amount this payee has been paid since the last election must also be reported.

All expenditures that are over \$50 may not be paid with cash and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure, and the specific purpose of the expenditure. Election sum-to-date totals for the payee must also be included.

Expenditures for non-media purposes that are less than \$50 may be shown as an aggregate amount and may be made in cash. The name of the payee is not required to be disclosed. However, the date of each expenditure, the specific amount of each expenditure, and the purpose of each expenditure must be included.

Any expenditure for postage may be paid in cash in any amount.

If a committee has something of value that is not monetary and they make an in-kind contribution to another entity, the committee must reflect this expenditure on the *Non-Monetary Gifts Given to Other Committees* form (**CRO-1330**). This amount is not included in any totals on the summary sheet, but is contained in the informational section of the *Detailed Summary* form (**CRO-1100**).

Committee treasurers should keep receipts for all expenditures on file. This is not a requirement, but can be helpful during audits.

Loans

Political Party Committees may receive loans from individuals and other entities permitted to make contributions. Loans are contributions and are subject to the same limitations as contributions. If a Political Party Committee receives a loan there is specific paperwork that must be completed. The treasurer of the Political Party Committee must have the “lender” complete and sign the *Loan Proceeds Statement* (**CRO-6100**). This statement requires the “lender” to provide the name of the lending institution and all guarantors responsible for the loan, if applicable. National, State, district, and county executive committees of political parties recognized by NCGS § 163-96 can receive loans in any amount from qualified contributors.

They may also make loans to political committees other than state judicial appellate candidate committees and superior and district court judge candidate committees in any amount. Subordinate political party committees and political party committees not recognized by NCGS §163-96 may only receive and make loans not to exceed four thousand dollars (\$4,000) for the election. If the “lender” has previously made a contribution, the loan amount totaled with the previous contribution may not exceed four thousand dollars (\$4,000) for that election. Any guarantor on the loan may not make any contribution that totaled with the amount of the loan they have guaranteed would exceed four thousand dollars (\$4,000).

Note: Subordinate political party committees may only loan \$1,000 per election to state judicial appellate candidate committees and superior and district court judge candidate committees.

A loan may only be forgiven if the lending institution has been paid in full for the amount of the loan and no other entity is owed for the loan. A “lender” wishing to forgive the loan would need to complete the *Forgiven*

Loan Statement (CRO-6200). If a Political Party Committee has a loan that has not been repaid or forgiven, the “Committee” may not close until the entire amount of the loan has been satisfied.

Debts and Obligations

All committees must document all debts and obligations owed by the “Committee” and those debts and obligations owed to the “Committee”. If a “Committee” receives a good or service which they did not pay for at the time, the date the good is received and/or the service rendered would be reflected as the date of the debt on the *Debts and Obligations Owed by the Committee* form (**CRO-1610**). Failure to provide this information is a failure to provide disclosure. The definition of expenditure includes a pledge, contract, promise or other obligation to make an expenditure. Therefore, the date of such pledge, contract, or promise is the date that should be reflected on the *Debts and Obligations Owed by the Committee* form.

A “Committee” may not close until all debts and obligations have been paid by the “Committee”. Any debt or obligation that is not paid would be considered a contribution to the “Committee”. Contributions over the limitation and from prohibited contributors would result in violations by the “Committee”.

Threshold Requirements

Political Party Committees have the option of being exempt from the reporting requirements if they certify that during the entire election cycle they will neither raise nor spend more than one thousand dollars (\$1,000). This certification is made on the *Certification of Threshold* form (**CRO-3600**). After this certification has been filed, the Political Party Committee is not required to file disclosure reports. However, the Political Party Committee is required to keep detailed records of all contributions and expenditures and to produce such records upon request of the Campaign Finance Office of the State Board of Elections.

Political Party Committees that make the certification and exceed the one thousand dollar (\$1,000) limitation during the election cycle must immediately file an amended *Certification of Threshold* form (**CRO-3600**). In addition, all contributions and expenditures from the origination date of the Committee or the beginning of the election cycle through the end of the current reporting period must be reported on the next required disclosure report. Filing under the threshold only exempts the Political

Party Committee from reporting requirements, not requirements to keep internal records of all “Committee” transactions.

Threshold status must be renewed at the beginning of every election cycle by filing a new *Certification of Threshold* form (**CRO-3600**). Otherwise, it is assumed that the party committee is not under the threshold for the new election cycle and reports will be required to be timely filed.

Notices of Reports Due

All registered Political Party Committees that have not filed under the one thousand dollar (\$1,000) threshold will receive notices for all reports due. All notices are sent to the current treasurer of record. Political Party Committees that change treasurers without notifying the appropriate Board of Elections office may not receive notices of reports being due. In addition, failure to provide notification of a treasurer change is a violation of disclosure law.

Reports to be Certified/Filed Timely

All disclosure reports must be certified by the treasurer as true and accurate. No longer are disclosure reports required to be notarized. An original signature below the certification statement contained on the *Disclosure Report Cover Sheet* (**CRO-1000**) serves as certification that the report being submitted is true and accurate as filed.

Disclosure reports are considered filed timely if they are hand delivered by the due date of the report or postmarked by the due date of the report. Disclosure reports must be filed at the State Board of Elections office. Failure to do so could result in penalties for late filings. If a report only bears a meter mark, the date the report is received in the State Board of Elections office will be the date filed. If that date is after the due date, the report will be considered late. All reports not postmarked on or before the due date or not received by the State Board of Elections office on or before the due date will be considered late and assessed penalties for late filing.

Any treasurer that intentionally files a report late in order to conceal contributions or expenditures is subject to the assessment of civil penalties and the cost of any investigation. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

The Campaign Finance Office of the State Board of Elections **strongly encourages** treasurers to send all disclosure reports by certified mail. In the event a postmark is not legible or a report is lost in the mail, the certified mail receipt will serve as proof of timely filing.

Civil Penalties

Political Party Committees may receive penalties for late-filed reports. A Political Party Committee's report that does not affect a statewide election would be penalized at \$50 per day not to exceed \$500. A report is considered to affect a statewide election if the "Committee" made any contributions to or in support of a statewide candidate or received any contributions from a statewide candidate. If the Political Party Committee did file a report that affected a statewide election, the "Committee" would be penalized at a rate of \$250 per day not to exceed \$10,000. In calculating penalties, only days the office is open are counted toward the penalty amount.

Failure to pay assessed penalties could result in the "Committee" having their active status terminated. Once the status of the "Committee" is terminated, the "Committee" is not eligible to receive contributions or make expenditures.

Inactive Status

Political Party Committees that do not desire to disburse all funds and close their "Committee", but also do not intend to receive any contributions or make any expenditures for a period of time, may file a *Certification of Inactive Status* form (**CRO-3200**). By filing this form, the "Committee" certifies that they will remain inactive (not receiving any contributions or making any expenditures) until a *Certification to Return to Active Status* form (**CRO-3300**) is filed. During the time the "Committee" is inactive, disclosure reports are not required to be filed. If at some point the "Committee" intends to receive contributions or make expenditures, the *Certification to Return to Active Status* form should be completed and all subsequent disclosure reports should be filed.

Closing the Committee

Political Party Committees that wish to close their committee may do so at any time during the election cycle. In order to close the committee, all funds in the bank account must be disbursed. If the Political Party Committee filed under the \$1,000 threshold, the only other documentation required would be the *Certification to Close Committee*

form (**CRO-3400**). If the Political Party Committee did not file under the \$1,000 threshold, a “Final Report” will be required in addition to the *Certification to Close Committee* form (**CRO-3400**). The “Final Report” reflects all activities starting with the first day not covered on the last report and ending on the day the last disbursement is made or, if the decision to close the committee occurred after the last disbursement, the date of the decision would be the end of the reporting period.

After the required paperwork has been filed by the Committee with the State Board of Elections office, the treasurer will consider the Committee “closed pending” until a letter has been sent by the Campaign Finance Office of the State Board of Elections stating that a final audit has been conducted and the Committee is considered “closed”. The treasurer should maintain all records for two years after the conclusion of the election cycle.

Political Party Committee

Reporting Schedule

This schedule is for all Party Committees registered with the State Board of Elections.

Within 10 days

Organizational Report

- Statement of Organization (CRO-2100C)
- Certification of Financial Account Information (CRO-3500)

AND EITHER Certification of Threshold (CRO-3600) *OR*

- Disclosure Report Cover (CRO-1000)
- Detailed Summary (CRO-1100)
- Contributions forms as applicable (CRO-1205 thru CRO-1250)
- Disbursement forms as applicable (CRO-1310 thru CRO-1330)
- Loan forms, if applicable (CRO-1410 thru CRO-1440)
- In-kind Contributions forms, if applicable (CRO-1510)
- Debts and Obligations forms, if applicable (CRO-1610 thru CRO-1620)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

July 30, 2010

2010 Mid Year Semi-Annual Report

- Required from all registered committees NOT actively participating in the 2010 elections
- Covers from last report thru June 30

- October 25, 2010** **2010 Third Quarter Plus Report**
- The third quarter plus 17 days preceding the General Election
 - Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru October 16
- October 17 – November 2, 2010** **48 Hour Reports**
- Required when contributions of \$1,000 or more are received
 - Due within 48 hours of receiving such a contribution
- November 2, 2010** **GENERAL ELECTION**
- January 11, 2011** **2010 Fourth Quarter Report**
- Required from all registered committees actively participating in the 2010 elections
 - Covers from last report thru December 31
- January 28, 2011** **2010 Year End Semi-Annual Report**
- Required from all registered committees NOT actively participating in the 2010 elections
 - Covers from July 1, 2010 thru December 31, 2010
- Final Report**
- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the Campaign Finance Office of the State Board of Elections at 506 North Harrington Street, Raleigh, NC 27603.

The mailing address is: PO Box 27255
Raleigh, NC 27611-7255

Telephone: 919-733-7173

North Carolina Political Parties Financing Fund

Appropriations

After either the primary or nominating convention of a political party is held in a general election year or a presidential general election year, the State chair of the political party may apply to the State Board of Elections for the disbursement of all funds deposited on behalf of that party with the State Treasurer into the North Carolina Political Parties Financing Fund. These funds are the result of taxpayer contributions. In the event that a primary or nominating convention is temporarily postponed for one election year, the State chair may apply for the disbursement after the regular date set for the primary or nominating convention prior to the postponement.

Upon receipt of an application from a State party chair, the State Board of Elections has 30 days from which to disburse to that party all funds currently held by the State Treasurer on that political party's behalf. All payments from this Fund shall cease 30 days after the State Board of Elections has certified all the general election results to the Secretary of State. In addition, upon receipt of the application from the State party chair in a presidential general election year, all funds held in the "Presidential Election Year Candidates Fund" by the State Treasurer for that political party shall be paid over to the State chair. The disbursement of these funds will also cease 30 days after the State Board of Elections has certified all general election results to the Secretary of State. Any remaining funds of that political party held by the State Treasurer at that time will continue to be held by the State Treasurer until again eligible for distribution.

In a year in which there is no general election, the State party chair may apply to the State Board of Elections on or between August 1st and September 1st for payment from the North Carolina Political Parties Financing Fund in an amount not to exceed fifty percent (50%) of the available funds credited to that party's account. The State Board of Elections shall disburse this amount to the State chair and direct the State Treasurer to place fifty percent (50%) of those available funds in a separate interest bearing account to be known as the "Presidential Election Year Candidates Fund of the (name of the party) Party". These funds will be disbursed as indicated above in presidential general

election years. Any interest this account earns shall be credited to the party.

Distribution of Campaign Funds by the Party

In a general election year or presidential general election year, the State chair shall disburse fifty percent (50%) of the funds received from the NC Political Party Financing Fund and the other fifty percent (50%) of the funds shall be allocated by the “Fund Special Committee”. This committee is composed of the State Chairman, Treasurer, the Congressional District Chairmen, and a number of persons that shall not exceed the number of congressional districts in North Carolina appointed by the State Chair. The State Chairman will serve as Chairman of the “Fund Special Committee”. The “Fund Special Committee” shall have the sole responsibility of disbursing fifty percent (50%) of the funds received from the NC Political Party Financing Fund. These funds may only be disbursed for one or more purposes (legitimate campaign expenses) as specifically defined in the Article. If funds are allocated to a candidate, the candidate may decline in whole or in part any funds distributed by the party. If any funds are allocated to a candidate, the State Chairman shall disburse the funds only to the Treasurer of that candidate or committee.

Legitimate Expenses Permitted

All funds received by a party from the North Carolina Political Parties Financing Fund or the Presidential Election Year Candidates Fund may only be disbursed for legitimate campaign expenses. In addition, it shall be unlawful for any money to be spent either directly or indirectly for the support or assistance of any candidate in a primary election, selection of a candidate at a political convention or by executive committee of a party, payment or repayment of any debt or other obligation of any kind incurred by any person, candidate or political committee in a primary election, selection of a candidate at a political convention or by executive committee of a party. It is also unlawful for funds to be spent in support, promotion or opposition of a national, State or local referendum, bond election or constitutional amendment.

The following expenses are permitted and are considered legitimate campaign expenses. These are examples of legitimate expenses and are illustrations, not limitations:

- Radio, television, newspaper, and billboard advertising for and on behalf of a political party or candidate;
- Leaflets, fliers, buttons, and stickers;

- Campaign staff salaries, provided each staff member is listed by name and by the amount paid as salary and the amount paid as campaign expense reimbursement;
- Travel expenses, lodging, and food for candidate and staff;
- Expenses to ensure compliance with federal and State campaign finance and reporting laws;
- Contributions to or expenses on behalf of candidates of that political party;
- Party headquarters operations related to upcoming general elections, including the purchase, maintenance and programming of computers to provide lists of voters, party workers, officers, committee members and participants in party functions; patterns of voting and other data for use in general election campaigns and party activities and functions prior thereto; the establishment and updating of computer file systems of voter registration lists; State, district, county and precinct officers and committee member lists; party clubs or organization lists; the organizing of voter registration, fund raising and get-out-the-vote programs at the county level when conducted by State party personnel; and the preparation of reports required to be filed by State and federal laws, and systems needed to prepare the same and keep records incident thereto.

Annual Report to State Board of Elections

The State chair of a party receiving funds from either the NC Political Parties Financing Fund or the Presidential Election Year Candidates Fund must maintain full and complete records of the party's receipts and any and all expenditures and disbursements. These records should include receipts, bank statements, and any other documentation substantiating all financial transactions of the party. These records should be centrally located and shall be readily available at reasonable hours for public inspection.

An Annual Report must be submitted to the Campaign Finance Office of the State Board of Elections by December 31st of a year in which a party receives revenue from either the NC Political Parties Financing Fund or the Presidential Election Year Candidates Fund. This report should be completed on the standard campaign finance reporting forms and in the same manner as other required campaign finance disclosure submissions. In addition, the State chair shall attach a verification that all funds received were expended in accordance with Article 22B of Chapter 163 of the NC General Statutes. If a determination is made by the Executive Director of the State Board of Elections that funds were not expended in accordance with Article 22B, the Executive Director shall order the political party to reimburse the General Fund of NC for the improper amount expended. No further payments from the Fund(s) will be made to the party until such reimbursement has been made in full. A copy of the order will be sent to the State Treasurer advising them to suspend disbursements from the Fund(s) until the reimbursement has been accomplished.

Political Party Headquarters Building Funds

Allowable Contributions

Those entities prohibited from contributing to political party committees may contribute to the building fund of a political party, if a building fund has been established. The contribution may be monetary or in-kind (other things of value). Such contributions must be deposited in a separate “Building Fund” account.

Specific Use of Building Funds

All donations made to a political party’s building fund must be subject to the following rules: (G.S. 163-278.19B)

- The donations solicited and accepted are designated to the political party headquarters building fund.
- Potential donors to that fund are advised that all donations will be exclusively for the political party headquarters building fund.
- The political party establishes a separate segregated bank account into which shall be deposited only donations for the political party headquarters building fund from persons prohibited from making contributions.
- The donations deposited in the separate segregated bank account for the political party headquarters building fund will be spent only to purchase a headquarters building, to construct a headquarters building, to renovate a headquarters building, to pay a mortgage on a headquarters building, or to repay donors if a headquarters building is not purchased, constructed, or renovated. Donations deposited into that account shall not be used for headquarters rent, utilities, or equipment other than fixtures.

Reports Due

The political party executive committee shall report donations to and spending from the political party headquarters building fund on all reports required by the political party. Even if the political party committee has filed under the threshold and is exempt from reporting, all funds into and from a political party headquarters building fund must be reported on the reporting schedule for political party committees not filing under the threshold. Please refer to the **Party Committee Reporting Schedule** for specific dates. All reports will be submitted to the Campaign Finance Office of the State Board of Elections.

Political committees (PACs)

General Requirements

Appointment of Treasurer

All non-federal political committees (PACs) must have an appointed treasurer who resides in North Carolina. NCGS § 163-278.7 states that a political committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the appropriate Board. The appointment of treasurer is made on the *Statement of Organization-Political Action Committee* form (**CRO-2100D**). Political committees (PACs) supporting candidates for statewide office, legislative, judicial offices, district attorney, or candidates in more than one county should file this form with the Campaign Finance Office of the North Carolina State Board of Elections. PACs supporting candidates for office in a single county or municipality should file their form with the county board of elections office for which the candidates are seeking office. The *Statement of Organization-Political Action Committee* form (**CRO-2100D**) is the **only** form that can be used by a PAC to officially change the treasurer. The treasurer listed on the last filed *Statement of Organization-Political Action Committee* form will be the treasurer of record and is considered responsible for the compliance of the “Committee”. PACs often change treasurers. It is extremely important for the “Committee” to complete the amended *Statement of Organization-Political Action Committee* form within 10 days of the change of treasurer. Failure to do so could result in late report penalties.

All money must be maintained in a separate bank account(s) used exclusively by the committee. No committee funds shall be commingled with any other funds.

An individual appointed as treasurer has several vital responsibilities. This individual must maintain all financial records of the “Committee”. These records should document every transaction of the “Committee”, including all documentation supporting all contributions and expenditures. In addition, the treasurer is responsible for the timely filing of all required reports. Failure to file reports in a timely manner results in penalties incurred by the “Committee”. Further, the treasurer is responsible for the accuracy of the reports and for compliance with campaign finance laws.

Mandatory Treasurer Training

Every treasurer of a North Carolina political committee must receive treasurer training from the State Board within three months of appointment and again once every four years. This training requirement can be accomplished by attending in-person training at the office of the State Board of Elections or a regional location across the State or by completing online training available on the website of the State Board of Elections (www.sboe.state.nc.us).

Treasurers that do not complete the mandatory training requirement in a timely manner are not eligible to sign required disclosure reports. Only candidates, treasurers, or assistant treasurers that have been trained are eligible to sign disclosure reports. Reports submitted by a treasurer that has not received training are subject to penalties.

A complete listing of training session dates can be found on our website. Please call our office at 919-733-7173 to sign up for an upcoming treasurer training session.

Organizing the Committee

A group or combination of two or more individuals whose major purpose is to support or oppose one or more clearly identified candidates or candidates of a clearly identified political party is a political committee (PAC). In order for political committees (PACs) to support or oppose candidates in North Carolina, they must first register with the appropriate board of elections office. For political committees (PACs) supporting or opposing candidates within a single county or municipality, organization would take place at the county board of elections office. For political committees (PACs) supporting or opposing (1) candidates for statewide office, or (2) candidates in more than one county, or (3) a candidate in a district that has more than one county, organization would take place at the Campaign Finance Office of the State Board of Elections.

The appointment of the treasurer is the first step, along with the completion of the *Statement of Organization-Political Action Committee* form (**CRO-2100D**), *Certification of Financial Account Number Information* form (**CRO-3500**) and the **Organizational Report**. Every political committee must complete these two forms and the **Organizational Report** within 10 days of organizing or of receiving or spending any money in order to support or oppose candidates. A political committee (PAC) must have a unique name, meaning there are no other active or inactive committees registered in North Carolina with the same name.

The Campaign Finance Office of the State Board of Elections or the county board of elections office can assist you with assuring that your committee name is unique.

After completing the *Statement of Organization-Political Action Committee* and the *Certification of Financial Account Number Information* forms, an **Organizational Report** must be completed. The **Organizational Report** is the first required disclosure report for political committees (PACs). The contents of the **Organizational Report** would include any contributions received or expenditures made in order to support or oppose candidates. The **Organizational Report** must include the *Disclosure Report Cover* form (**CRO-1000**) and the *Detailed Summary* form (**CRO-1100**). If contributions have been received or expenditures made, additional forms containing those transactions would be included with this report. A helpful hint to remember when completing disclosure reports using our paper forms is that the *Detailed Summary* form (**CRO-1100**) is your roadmap. If you list a dollar amount on any line of that form, you will need to complete the form that is listed beside the dollar amount. If you use our electronic software, this process is even more simplified. Once these steps have been taken, the committee is ready to begin.

Reporting Forms

Disclosure reports are required from all PACs. These reports can either be filed on paper or electronically. Federal committees only file on the NC Federal Committee forms. Most committees will use less than 10 forms, but there is a form for almost all transactions, if needed. For committees desiring to keep all records in an electronic format, the Campaign Finance Office of the State Board of Elections has developed free electronic software to keep these records and complete the required disclosure reports. This software is discussed in the next section.

If you decide to use the paper forms, the following list contains the forms that could be used by your committee. These forms can be found on our website at www.sboe.state.nc.us. Some of the forms in our system are specific to certain types of committees. PACs should only submit from the list provided below and Federal Committees only from the second list below:

- CRO-2100D Statement of Organization-Political Action Committee
- CRO-2110 Statement of Organization Addendum
- CRO-2120 Additional Committee Funds
- CRO-3200 Certification of Inactive Status

CRO-3300 Certification to Return to Active Status
CRO-3400 Certification to Close Committee
CRO-3500 Certification of Financial Account Number Information
CRO-3700 Certification of Incorporated Political Committee
CRO-1000 Disclosure Report Cover
CRO-1010 Disclosure Report Cover Addendum
CRO-1100 Detailed Summary
CRO-1205 Aggregated Contributions from Individuals
CRO-1215 Contributions to be Reimbursed
CRO-1210 Contributions from Individuals
CRO-1220 Contributions from Political Party Committees
CRO-1230 Contributions from Other Political Committees
CRO-1240 Refunds and Reimbursements to the Committee
CRO-1250 Other Receipt Sources
CRO-1310 Disbursements
CRO-1315 Aggregated Non-Media Expenditures
CRO-1320 Refunds and Reimbursements from the Committee
CRO-1330 Non-Monetary Gifts Given to Other Committees
CRO-1410 Loan Proceeds
CRO-1420 Loan Repayments
CRO-1430 Outstanding Loans
CRO-1440 Forgiven Loans
CRO-1510 In-Kind Contributions
CRO-1610 Debts and Obligations Owed by the Committee
CRO-1620 Debts and Obligations Owed to the Committee
CRO-1710 Administrative Support (*only for PACs with a parent entity*)
CRO-1720 Account Transfers Within the Committee
CRO-6100 Loan Proceeds Statement
CRO-6200 Forgiven Loan Statement
CRO-6300 Contribution from a Business Account Statement
CRO-2220 48 Hour Notice

NC Federal Committee Filing Forms

- CRO-4000 Federal Committee Statement of Organization
- CRO-4010 Federal Committee Statement of Organization Addendum
- CRO-4100 Federal Committee NC Disclosure Report Cover
- CRO-4110 Federal Committee NC Disclosure Report Cover Addendum
- CRO-4200 Federal Committee Report of Contributions to NC Political Committees

Electronic Filing

Electronic filing is an alternative for all political committees (PACs), including NC Federal Committees, and a requirement for some political committees (PACs), including NC Federal Committees. The Campaign Finance Office of the State Board of Elections has spent the past three years designing and upgrading the electronic filing software in an effort to provide committees with improved campaign finance management and disclosure tools. The FREE software includes an audit feature that will identify possible violations and discrepancies before the report is filed. In addition, the software tracks all contributors entered into the system and reports only those contributors required by law to be reported. Software training is available at the State Board of Elections office in Raleigh. Dates and locations for regional trainings are posted on our website at www.sboe.state.nc.us.

A political committee (PAC) that makes contributions or independent expenditures that affect contests for statewide office and that cumulatively are in excess of \$5,000 for the election cycle must file electronically with the Campaign Finance Office of the State Board of Elections. Political committees (PACs) required to file electronically but failing to do so are subject to penalties.

For more information on filing disclosure reports electronically, please contact our office at 919-733-7173 or visit our website.

Contributions

Contributions are anything of value that support or oppose the nomination or election of one or more clearly identified candidates or candidates of a clearly identified political party. Contributions may be monetary or non-monetary. Loans, pledges, gifts, proceeds or sales of services, in-kind transfers, use of any supplies, office machinery, vehicles, aircraft, office space or related services, goods, or personal or

real property are all contributions. All contributions are subject to the regulations of the North Carolina General Statutes.

It is important to be extremely familiar with the limitations and prohibitions on contributions. The following information is for all PACs.

Limitations

A PAC may not accept and a contributor may not give more than four thousand dollars (\$4,000) per election. Therefore, if there is a primary and a general election, the PAC may receive four thousand dollars (\$4,000) through the day of the primary and four thousand dollars (\$4,000) from the day after the primary through the general election. If the PAC is involved (contributing) in a second primary, the PAC would be entitled to receive an additional four thousand dollars (\$4,000) from the day after the primary through the day of the second primary. If the PAC is not involved (contributing) in the second primary, they would not be entitled to the additional four thousand dollars (\$4,000).

Prohibitions

It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to a PAC.

Political committees not registered with North Carolina are also prohibited from contributing.

Registered referendum committees that received any contribution from a corporation, labor union, insurance company, business entity, or professional association or received contributions in excess of the contribution limits for a PAC may not contribute to a PAC.

Anonymous contributions are prohibited in North Carolina. This includes any funds raised for which contributor contact information is not obtained, such as “pass-the-hat” collections. Contributions made in the name of another are also prohibited. In addition, all checks or money orders must contain a specific designation of the intended recipient chosen by the contributor.

All contributions in excess of \$50 must be made by check, draft, money order, credit card, debit, or other noncash method.

Any such contributions received shall be turned over to the Board for deposit into the NC Civil Penalty and Forfeiture Fund.

Reporting Contributions

PACs are required to report all contributions. All contributors contributing over \$50 for the election must be reported with the contributor's name, address and occupational information.

Contributions received from an individual that have not exceeded \$50 since the day after the last election or primary election does not require the reporting of the name, address or occupational information of the individual. The date, amount, payment method, account, and election sum-to-date shall be disclosed for all contributions, regardless of amount.

If an individual exceeds \$50 for the election, the treasurer would be required to disclose the name of that individual on the next required disclosure report and all contributions made by that individual since the date of the last election or primary election. Additionally, contributions received at a fundraiser from the sale of items such as dinner tickets, t-shirts, buttons, or hotdogs would also require disclosure and count toward an individual's \$50 threshold for identity reporting.

In-kind contributions are reported as any other contribution. The contributor should provide the committee with a statement setting forth the fair market value of the in-kind contribution. The contribution is reported on the appropriate form (*Contributions from Individuals (CRO-1210)* or *Contributions from Political Party Committees (CRO-1220)* or *Contributions from Other Political Committees (CRO-1230)* or *Other Receipt Sources (CRO-1250)*) and also on the *In-Kind Contributions* form (CRO-1510). The reporting on the *In-Kind Contributions* form (CRO-1510) serves to balance the account. Since the in-kind contribution is not actually monetary, when it is reported as a receipt it inflates the balance of the account. The *In-Kind Contribution* form balance is recorded in the expenditure portion of the reporting. Therefore, the amount of the receipt is subtracted from the total, balancing the account and providing accurate disclosure as to the amount of money in the account.

Limitations on Fund-raising during Legislative Sessions

Since there is a complete ban on lobbyist contributions to members of the General Assembly and members of the Council of State, the fundraising limitations during regular sessions of the General Assembly are practically only relevant to candidates for the General Assembly and Council of State and political committees that employ a lobbyist. Specifically, a political committee that employs or contracts with or whose parent entity employs or contracts with a NC registered lobbyist (“limited contributor”) may not contribute to a member or candidate for the General Assembly or member or candidate for the Council of State (“limited contributee”) while the General Assembly is in “regular session.” A “regular session” of the General Assembly is defined as the date set by law or resolution that the General Assembly convenes until the General Assembly adjourns sine die or recesses or adjourns for more than 10 days.

- A “limited contributee” may not solicit from a “limited contributor” any contribution to be made to a “limited contributee” or any other candidate, officeholder, or political committee.
 - A “limited contributee” may not solicit a third party to directly or indirectly solicit a contribution from a “limited contributor” **or** have the third party relay to the “limited contributor” the solicitation of the “limited contributee”.
 - No “limited contributor” shall make or offer to make a contribution to a “limited contributee”.
 - No “limited contributor” shall make a contribution to any candidate, officeholder, or political committee and direct or request that contribution to be made to a “limited contributee.”
 - No “limited contributor” shall transfer anything of value to any entity and direct that entity to use what was transferred as a contribution to a “limited contributee.”
 - No “limited contributee” or the real or purported agent of a “limited contributee” prohibited from solicitation shall accept a contribution from a “limited contributor.”
 - No “limited contributor” shall solicit a contribution from any individual or political committee on behalf of a “limited contributee.” This does not apply to a “limited contributor” soliciting a contribution on behalf of a political party executive committee if the solicitation is solely for a separate segregated fund kept by the political party limited to use for activities that are not candidate-specific, including generic voter registration and get-out-the-vote efforts, pollings, mailings, and other general activities and advertising that do not refer to a specific individual candidate.
- ❖ A contribution is **“made”** during regular session if the check or other instrument is dated during the session, or if the check or other instrument is delivered to the “limited contributee” during session, or if the “limited contributor” pledges during the session to deliver the check or other instrument at a later time.

- ❖ A contribution is “**accepted**” during regular session if the check or other instrument is dated during the session, or if the “limited contributee” receives the check or other instrument during session and does not return it within 10 days.
- ❖ A violation of these limitations is a Class 2 misdemeanor.
- ❖ The exception to these limitations is that the limitations on fund-raising do not apply to a “limited contributee” during the three weeks prior to a second primary where the “limited contributee” will be a candidate on the ballot.

Expenditures

There are very few restrictions on how a PAC may spend its money. However, all expenditures must be reported, along with the specific purpose of the expenditure. The limitations on expenditures exist mainly in contributing to other political committees. Unless the political committee is a political party committee exempt from the contribution limitations, a PAC would be limited to contributing four thousand dollars (\$4,000) per election.

Note: PACs may only contribute \$1,000 per election to state judicial appellate candidate committees and superior and district court judge candidate committees.

All expenditures must be reported. Any expenditure that is made for media purposes must be paid by a verifiable form of payment and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure and the specific purpose of the expenditure. In addition, the amount this payee has been paid since the last election must also be reported.

All expenditures that are over \$50 may not be paid with cash and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure, and the specific purpose of the expenditure. Election sum-to-date totals for the payee must also be included.

Expenditures for non-media purposes that are less than \$50 may be shown as an aggregate amount and may be made in cash. The name of the payee is not required to be disclosed. However, the date of the expenditure, the specific amount of each expenditure, and the purpose of each expenditure must be included. Any expenditure for postage may be paid in cash in any amount.

If a committee has something of value that is not monetary and they make an in-kind contribution to another entity, the committee must reflect this expenditure on the *Non-Monetary Gifts Given to Other Committees* form (**CRO-1330**). This amount is not included in any totals on the summary sheet, but is contained in the informational section of the *Detailed Summary* form (**CRO-1100**).

Committee treasurers should keep receipts for all expenditures on file. This is not a requirement, but can be helpful during audits.

Loans

PACs may receive loans from individuals and other entities allowed to make contributions. Loans are contributions and are subject to the same limitations as contributions. If a PAC receives a loan there is specific paperwork that must be completed. The treasurer of the PAC must have the “lender” complete and sign the *Loan Proceeds Statement* (**CRO-6100**). This statement requires the “lender” to provide the name of the lending institution and all guarantors responsible for the loan. The loan amount must not exceed four thousand dollars (\$4,000). If the “lender” has previously made a contribution, the loan amount totaled with the previous contribution may not exceed four thousand dollars (\$4,000) for that election. Any guarantor on the loan may not make any contribution that totaled with the amount of the loan they have guaranteed would exceed four thousand dollars (\$4,000).

Note: PACs may only loan \$1,000 per election to state judicial appellate candidate committees and superior and district court judge candidate committees.

A loan may only be forgiven if the lending institution has been paid in full for the amount of the loan and no other entity is owed for the loan. A “lender” wishing to forgive the loan would need to complete the *Forgiven Loan Statement* (**CRO-6200**). If a PAC has a loan that has not been repaid or forgiven, the “Committee” may not close until the entire amount of the loan has been satisfied.

Debts and Obligations

All committees must document all debts and obligations owed by the “Committee” and those debts and obligations owed to the “Committee”. If a “Committee” receives a good or service which they did not pay for at the time, the date the good is received and/or the service rendered would be reflected as the date of the debt on the *Debts and Obligations Owed by*

the *Committee* form (**CRO-1610**). Failure to provide this information is a failure to provide disclosure. The definition of expenditure includes a pledge, contract, promise or other obligation to make an expenditure. Therefore, the date of such pledge, contract, or promise is the date that should be reflected on the *Debts and Obligations Owed by the Committee* form.

A “Committee” may not close until all debts and obligations have been paid by the “Committee”. Any debt or obligation that is not paid would be considered a contribution to the “Committee”. Contributions over the limitation and from prohibited contributors would result in violations by the “Committee”.

Administrative Support

PACs that are registered in North Carolina may receive reasonable administrative support from the parent entity designated on the *Statement of Organization-Political Action Committee (CRO-2100D)* if the parent entity is a corporation, business entity, labor union, professional association, or insurance company. Such reasonable support may include, but is not specifically limited to, record keeping, computer services, billings, mailings to members of the committee, membership development, fund-raising activities, office supplies, office space, and such other support that is necessary for the administration of the “Committee”. Additionally, the allocable portion of the compensation of any officer or employee of the parent entity that devoted more than 35% of their time during normal business hours of the parent entity must be reported. Administrative support **would not** include contributions or expenditures made in support of or opposition to candidates.

The parent entity shall provide in writing the approximate cost of all administrative support given to the PAC. The PAC is required to report administrative support on its disclosure reports using the *Administrative Support* form (**CRO-1710**). The PAC is required to attach a copy of the written approximate cost received from the parent entity.

Notices of Reports Due

All PACs that are registered in North Carolina will receive notices for all reports due. All notices are sent to the current treasurer of record. PACs that change treasurers without notifying the appropriate Board of Elections office may not receive notices of reports being due. In addition, failure to provide notification of a treasurer change is a violation of disclosure law.

Reports to be Certified/Filed Timely

All disclosure reports must be certified by the treasurer as true and accurate. No longer are disclosure reports required to be notarized. An original signature below the certification statement contained on the *Disclosure Report Cover Sheet (CRO-1000)* serves as certification that the report being submitted is true and accurate as filed.

Disclosure reports are considered filed timely if they are hand delivered by the due date of the report or postmarked by the due date of the report. Disclosure reports must be filed at the appropriate Board of Elections office. Failure to do so could result in penalties for late filings. If a report only bears a meter mark, the date the report is received in the appropriate Board of Elections office will be the date filed. If that date is after the due date, the report will be considered late. All reports not postmarked on or before the due date or not received by the appropriate Board of Elections office on or before the due date will be considered late and assessed penalties for late filing.

Any treasurer that intentionally files a report late in order to conceal contributions or expenditures is subject to the assessment of civil penalties and the cost of any investigation. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

The Campaign Finance Office of the State Board of Elections **strongly encourages** treasurers to send all disclosure reports by certified mail. In the event a postmark is not legible or a report is lost in the mail, the certified mail receipt will serve as proof of timely filing.

Civil Penalties

PACs may receive penalties for late-filed reports. A report that does not affect a statewide election would be penalized at \$50 per day not to exceed \$500. A report is considered to affect a statewide election if the “Committee” made any contributions to or in support of a statewide candidate or received any contributions from a statewide candidate. If the PAC did file a report that affected a statewide election, the “Committee” would be penalized at a rate of \$250 per day not to exceed \$10,000. In calculating penalties, only days the office is open are counted toward the penalty amount.

Failure to pay assessed penalties could result in the “Committee” having their active status terminated. Once the status of the “Committee” is

terminated, the “Committee” is not eligible to receive contributions or make expenditures.

Inactive Status

PACs that do not desire to disburse all funds and close their “Committee”, but also do not intend to receive any contributions or make any expenditures for a period of time, may file a *Certification of Inactive Status* form (**CRO-3200**). By filing this form, the “Committee” certifies that they will remain inactive (not receiving any contributions or making any expenditures) until a *Certification to Return to Active Status* form (**CRO-3300**) is filed. During the time the “Committee” is Inactive, disclosure reports are not required to be filed. If at some point the “Committee” intends to receive contributions or make expenditures, the *Certification to Return to Active Status* form should be completed and all subsequent disclosure reports should be filed.

Closing the Committee

Political Committees (PACs) that wish to close their committee may do so at any time during the election cycle. In order to close the committee, all funds in the bank account must be disbursed and a “Final Report” will be required to be filed in addition to the *Certification to Close Committee* form (**CRO-3400**). The “Final Report” reflects all activities starting with the first day not covered on the last report and ending on the day the last disbursement is made or, if the decision to close the committee occurred after the last disbursement, the date of the decision would be the end of the reporting period.

After the required paperwork has been filed by the Committee with the appropriate board of elections office, the treasurer will consider the Committee “tentatively closed” until a letter has been sent by the Campaign Finance Office of the State Board of Elections stating that a final audit has been conducted and the Committee is considered “closed”. The treasurer should maintain all records for two years after the conclusion of the election cycle.

NC State PACs

Reporting Schedule

This schedule is for all PACs registered with the State Board of Elections.

Within 10 days

Organizational Report

- Statement of Organization (CRO-2100D)
- Certification of Financial Account Information (CRO-3500)
- Disclosure Report Cover (CRO-1000)
- Detailed Summary (CRO-1100)
- Contributions forms as applicable (CRO-1205 thru CRO-1250)
- Disbursement forms as applicable (CRO-1310 thru CRO-1330)
- Loan forms, if applicable (CRO-1410 thru CRO-1440)
- In-kind Contributions forms, if applicable (CRO-1510)
- Debts and Obligations forms, if applicable (CRO-1610 thru CRO-1620)
- Administrative Support form, if applicable (CRO-1710)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

October 25, 2010

2010 Third Quarter Plus Report

- The third quarter plus 17 days preceding the General Election
- Required from all registered committees actively participating in the 2010 elections
- Covers from last report thru October 16

October 17 – November 2, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

November 2, 2010

GENERAL ELECTION

January 11, 2011

2010 Fourth Quarter Report

- Required from all registered committees actively participating in the 2010 elections
- Covers from last report thru December 31

Final Report

- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the Campaign Finance Office of the State Board of Elections at 506 North Harrington Street, Raleigh, NC 27603.

The mailing address is: PO Box 27255
Raleigh, NC 27611-7255

Telephone: 919-733-7173

County PACs

Reporting Schedule

This schedule is for all PACs registered with a county board of elections office.

Within 10 days

Organizational Report

- Statement of Organization (CRO-2100D)
- Certification of Financial Account Information (CRO-3500)
- Disclosure Report Cover (CRO-1000)
- Detailed Summary (CRO-1100)
- Contributions forms as applicable (CRO-1205 thru CRO-1250)
- Disbursement forms as applicable (CRO-1310 thru CRO-1330)
- Loan forms, if applicable (CRO-1410 thru CRO-1440)
- In-kind Contributions forms, if applicable (CRO-1510)
- Debts and Obligations forms, if applicable (CRO-1610 thru CRO-1620)
- Administrative Support form, if applicable (CRO-1710)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

October 25, 2010

2010 Third Quarter Plus Report

- The third quarter plus 17 days preceding the General Election
- Required from all registered committees actively participating in the 2010 elections
- Covers from last report thru October 16

October 17 – November 2, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

November 2, 2010

GENERAL ELECTION

January 11, 2011

2010 Fourth Quarter Report

- Required from all registered committees actively participating in the 2010 elections
- Covers from last report thru December 31

Final Report

- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the PAC's local board of elections office.

Refer to our website (www.sboe.state.nc.us) for the address of all county board of elections offices.

Municipal PACs

Reporting Schedule

This schedule is for all municipal PACs which are not participating in 2010 county or state elections. **If a municipal PAC makes contributions or expenditures concerning state or county offices in 2010, then that PAC must file reports on the schedule for State or County PACs as listed on the previous pages.**

- | | |
|-------------------------|--|
| January 29, 2010 | 2009 Year End Semi-annual Report <ul style="list-style-type: none">• Required from all registered committees and elected officials• Covers from July 1 thru December 31, 2009 |
| July 30, 2010 | 2010 Mid Year Semi-Annual Report <ul style="list-style-type: none">• Required from all registered committees NOT actively participating in the 2010 elections• Covers from last report thru June 30 |
| January 28, 2011 | 2010 Year End Semi-Annual Report <ul style="list-style-type: none">• Required from all registered committees NOT actively participating in the 2010 elections• Covers from July 1, 2010 thru December 31, 2010
Final Report <ul style="list-style-type: none">• Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed |

Where do I file these reports?

All reports should be filed with the PAC's local board of elections office.

Refer to our website (www.sboe.state.nc.us) for the address of all county board of elections offices.

Federal PACs

Reporting Schedule

This schedule is for all federal PACs registered with the State Board of Elections.

Within 10 days

Organizational Report

- Statement of Organization (CRO-4000)
- Certification of Financial Account Information (CRO-3500)
- Federal Committee NC Disclosure Report Cover form (CRO-4100)
- Federal Committee Report of Contributions to NC Political Committees form (CRO-4200)

January 29, 2010

2009 Year End Semi-annual Report

- Required from all registered committees and elected officials
- Covers from July 1 thru December 31, 2009

April 26, 2010

2010 First Quarter Plus Report

- The first quarter plus 17 days preceding primary elections
- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru April 17

April 18 – May 4, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

May 4, 2010

PRIMARY ELECTION

July 12, 2010

2010 Second Quarter Report

- Required from all registered committees actively participating in 2010 elections
- Covers from last report thru June 30

October 25, 2010

2010 Third Quarter Plus Report

- The third quarter plus 17 days preceding the General Election
- Required from all registered committees actively participating in the 2010 elections
- Covers from last report thru October 16

October 17 – November 2, 2010

48 Hour Reports

- Required when contributions of \$1,000 or more are received
- Due within 48 hours of receiving such a contribution

November 2, 2010

GENERAL ELECTION

January 11, 2011

2010 Fourth Quarter Report

- Required from all registered committees actively participating

in the 2010 elections

- Covers from last report thru December 31

Final Report

- Filed when all funds are disbursed, loans repaid or forgiven, debts paid and committee bank account closed

Where do I file these reports?

All reports should be filed with the Campaign Finance Office of the State Board of Elections at 506 North Harrington Street, Raleigh, NC 27603.

The mailing address is: PO Box 27255
Raleigh, NC 27611-7255

Telephone: 919-733-7173

Referendum committees

General Requirements

Appointment of Treasurer

All referendum committees must have an appointed treasurer who resides in North Carolina. NCGS § 163-278.7 states that a referendum committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the appropriate Board. The appointment of treasurer is made on the *Statement of Organization-Referendum Committee* form (**CRO-2100E**). Referendum committees established in support of or opposition to a statewide ballot issue or a ballot issue for multiple counties should file this form with the Campaign Finance Office of the North Carolina State Board of Elections. Referendum committees established in support of or opposition to a single county or municipality ballot issue should file their form with the county board of elections office conducting the referendum. The *Statement of Organization-Referendum Committee* form (**CRO-2100E**) is the **only** form that can be used by a referendum committee to officially change the treasurer. The treasurer listed on the last filed *Statement of Organization-Referendum Committee* form will be the treasurer of record and is considered responsible for the compliance of the “Committee. If at any time the referendum committee changes treasurers it is extremely important for the “Committee” to complete the amended *Statement of Organization-Referendum Committee* form within 10 days of the change of treasurer. Failure to do so could result in late report penalties.

An individual appointed as treasurer has several vital responsibilities. This individual must maintain all financial records of the “Committee”. These records should document every transaction of the “Committee”, including all documentation supporting all contributions and expenditures. In addition, the treasurer is responsible for the timely filing of all required reports. Failure to file reports in a timely manner results in penalties incurred by the “Committee”. Further, the treasurer is responsible for the accuracy of the reports and compliance with campaign finance laws.

Mandatory Treasurer Training

Every treasurer of a referendum committee shall receive, prior to every election in which the referendum committee is involved, training from the State Board of Elections as to the duties of the office. The treasurer may designate an employee or volunteer of the committee to receive the training.

Organizing the Committee

A group or combination of two or more individuals that has the primary purpose to support or oppose the passage of any referendum on the ballot is a referendum committee. In order for referendum committees to support or oppose the passage of a ballot issue in North Carolina, they must first register with the appropriate board of elections office. For referendum committees supporting or opposing the passage of a ballot issue within a single county or municipality, organization would take place at the county board of elections office. For referendum committees supporting or opposing the passage of a statewide or multiple county ballot issue, organization would take place at the Campaign Finance Office of the State Board of Elections.

The appointment of the treasurer is the first step, along with the completion of the *Statement of Organization-Referendum Committee* form (**CRO-2100E**), *Certification of Financial Account Number Information* form (**CRO-3500**) and the **Organizational Report**. Every referendum committee must complete these two forms and the **Organizational Report** within 10 days of receiving or spending any money in order to support or oppose a ballot issue.

All money must be maintained in a separate bank account(s) used exclusively by the committee. No committee funds shall be commingled with any other funds.

A referendum committee must have a unique name, meaning there are no other active, inactive or closed committees registered in North Carolina with the same name. The Campaign Finance Office of the State Board of Elections or the county board of elections office can assist you with assuring that your committee name is unique.

After completing the *Statement of Organization-Referendum Committee* and the *Certification of Financial Account Number Information* forms, an **Organizational Report** must be completed. The **Organizational Report** is the first required disclosure report for referendum committees. The contents of the **Organizational Report** would include any contributions received or expenditures made in order to support or oppose the passage of a ballot issue. The **Organizational Report** must include the *Disclosure Report Cover* form (**CRO-1000**) and the *Detailed Summary* form (**CRO-1100**). If contributions have been received or expenditures made, additional forms containing those transactions would be included with this report. A helpful hint to remember when completing disclosure reports using our paper forms is that the *Detailed Summary* form (**CRO-1100**) is your roadmap. If you list a dollar amount on any line of that form, you will need to complete the form that is listed beside

the dollar amount. If you use our electronic software, this process is even more simplified. Once these steps have been taken, the committee is ready to begin.

Reporting Forms

Disclosure reports are required from all referendum committees. These reports can either be filed on paper or electronically. There are numerous forms in our paper disclosure filing system. Most committees will use less than 10 of these forms, but there is a form for almost all transactions, if needed. For committees desiring to keep all records in an electronic format, the Campaign Finance Office of the State Board of Elections has developed free electronic software to keep these records and complete the required disclosure reports. This software is discussed in the next section.

If you decide to use the paper forms, the following list contains the forms that could be used by your committee. These forms may be found on our website at www.sboe.state.nc.us. Some of the forms in our system are specific to certain types of committees. Referendum Committees should only submit from the list provided below:

- CRO-2100E Statement of Organization-Referendum Committee
- CRO-2110 Statement of Organization Addendum
- CRO-2120 Additional Committee Funds
- CRO-3200 Certification of Inactive Status
- CRO-3300 Certification to Return to Active Status
- CRO-3400 Certification to Close Committee
- CRO-3500 Certification of Financial Account Number Information
- CRO-1000 Disclosure Report Cover
- CRO-1010 Disclosure Report Cover Addendum
- CRO-1100 Detailed Summary
- CRO-1205 Aggregated Contributions from Individuals
- CRO-1215 Contributions to be Reimbursed
- CRO-1210 Contributions from Individuals
- CRO-1220 Contributions from Political Party Committees
- CRO-1230 Contributions from Other Political Committees
- CRO-1240 Refunds and Reimbursements to the Committee
- CRO-1250 Other Receipt Sources

CRO-1310 Disbursements
CRO-1315 Aggregated Non-Media Expenditures
CRO-1320 Refunds and Reimbursements from the Committee
CRO-1330 Non-Monetary Gifts Given to Other Committees
CRO-1410 Loan Proceeds
CRO-1420 Loan Repayments
CRO-1430 Outstanding Loans
CRO-1440 Forgiven Loans
CRO-1510 In-Kind Contributions
CRO-1610 Debts and Obligations Owed by the Committee
CRO-1620 Debts and Obligations Owed to the Committee
CRO-1720 Account Transfers Within the Committee
CRO-6100 Loan Proceeds Statement
CRO-6200 Forgiven Loan Statement
CRO-2220 48 Hour Notice

Electronic Filing

Electronic filing is an alternative for all referendum committees. The Campaign Finance Office of the State Board of Elections has spent the past several years re-designing and upgrading the electronic filing software in an effort to provide committees with improved campaign finance management and disclosure tools. The FREE software includes an audit feature that will identify possible violations and discrepancies before the report is filed. In addition, the software tracks all contributors entered into the system and reports only those contributors required by law to be reported. Software training is available at the State Board of Elections office in Raleigh. Regional training dates and locations are posted on our website at www.sboe.state.nc.us.

For more information on filing disclosure reports electronically, please contact our office at 919-733-7173 or visit our website.

Contributions

Contributions are anything of value that support or oppose the nomination or election of one or more clearly identified candidates or support or oppose the passage of any referendum on the ballot. Contributions may be monetary or non-monetary. Loans, pledges, gifts, proceeds or sales of services, in-kind transfers, use of any supplies, office machinery, vehicles, aircraft, office space

or related services, goods, or personal or real property are all contributions. All contributions are subject to the regulations of the North Carolina General Statutes.

It is important to be extremely familiar with the limitations and prohibitions on contributions. The following information is for all referendum committees.

Limitations

There are no contribution limitations on referendum committees. Individuals and other entities may contribute in any amount and the referendum committee may receive contributions in any amount.

Prohibitions

It is **lawful** for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to a referendum committee. However, political committees not registered with North Carolina are prohibited from contributing to referendum committees. Registered referendum committees that receive any contribution from a corporation, labor union, insurance company, business entity, or professional association **cannot** contribute to any other political committee.

Anonymous contributions are prohibited in North Carolina. This includes any funds raised for which contributor contact information is not obtained, such as “pass-the-hat” collections. Contributions made in the name of another are also prohibited. In addition, all checks or money orders must contain a specific designation of the intended recipient chosen by the contributor.

All contributions in excess of \$50 must be made by check, draft, money order, credit card, debit, or other noncash method.

Any such contributions received shall be turned over to the Board for deposit into the NC Civil Penalty and Forfeiture Fund.

Reporting Contributions

Referendum committees are required to report all contributions. All contributors contributing over \$50 for the election must be reported with the contributor’s name, address and occupational information.

Contributions received from an individual that have not exceeded \$50 since the day after the last election or primary election do not require the reporting of the

name, address or occupational information of the individual. The date, amount, payment method, account, and election sum-to-date shall be disclosed for all contributions, regardless of amount.

If an individual exceeds \$50 for the election, the treasurer must disclose the name of that individual on the next required disclosure report and all contributions made by that individual since the date of the last election or primary election. Additionally, contributions received at a fundraiser from the sale of items such as dinner tickets, t-shirts, buttons, or hotdogs would also require disclosure and count toward an individual's \$50 threshold for identity reporting.

In-kind contributions are reported as any other contribution. The contributor should provide the committee with a statement setting forth the fair market value of the in-kind contribution. The contribution is reported on the appropriate form (*Contributions from Individuals (CRO-1210)* or *Contributions from Political Party Committees (CRO-1220)* or *Contributions from Other Political Committees (CRO-1230)* or *Other Receipt Sources (CRO-1250)*) and also on the *In-Kind Contributions* form (**CRO-1510**). The reporting on the *In-Kind Contributions* form (**CRO-1510**) serves to balance the account. Since the in-kind contribution is not actually monetary, when it is reported as a receipt it inflates the balance of the account. The *In-Kind Contribution* form balance is recorded in the expenditure portion of the reporting. Therefore, the amount of the receipt is subtracted from the total, balancing the account and providing accurate disclosure of the amount of money in the account.

Expenditures

There are very few restrictions on how a referendum committee may spend its money. However, all expenditures must be reported, along with the specific purpose of the expenditure. If a referendum committee has received contributions from any corporation, business entity, labor union, professional association or insurance company or contributions in excess of the limitations for a PAC they may not make a contribution to any other political committee.

Any expenditure that is made for media purposes must be paid with a verifiable form of payment and must be disclosed with the name of the payee, the address of the payee, the date of the expenditure and the specific purpose of the expenditure. In addition, the amount this payee has been paid since the last election must also be reported.

All expenditures that are over \$50 may not be paid with cash and must be disclosed with the name of the payee, the address of the payee, the date of the

expenditure, and the specific purpose of the expenditure. Election sum-to-date totals for the payee must also be included.

Expenditures for non-media purposes that are less than \$50 may be shown as an aggregate amount and may be made in cash. The name of the payee is not required to be disclosed. However, the date of the expenditure, the specific amount of each expenditure, and the purpose of each expenditure must be included.

If a committee has something of value that is not monetary and they make an in-kind contribution to another entity, the committee must reflect this expenditure on the Non-Monetary Gifts Given to Other Committees form (**CRO-1330**). This amount is not included in any totals on the summary sheet, but is contained in the informational section of the Detailed Summary form (**CRO-1100**).

Committee treasurers should keep receipts for all expenditures on file. This is not a requirement, but can be helpful during audits.

Loans

Referendum Committees may receive loans from individuals and other entities. Loans are contributions and are subject to the same disclosure requirements as contributions. If a Referendum Committee receives a loan there is specific paperwork that must be completed. The treasurer of the Referendum Committee must have the “lender” complete and sign the *Loan Proceeds Statement* (**CRO-6100**). This statement requires the “lender” to provide the name of the lending institution and all guarantors responsible for the loan, if applicable.

A loan may only be forgiven if the lending institution has been paid in full for the amount of the loan and no other entity is owed for the loan. A “lender” wishing to forgive the loan would need to complete the *Forgiven Loan Statement* (**CRO-6200**). If a Referendum Committee has a loan that has not been repaid or forgiven, the “Committee” may not close until the entire amount of the loan has been satisfied.

Debts and Obligations

All committees must document all debts and obligations owed by the “Committee” and those debts and obligations owed to the “Committee”. If a “Committee” receives a good or service which they did not pay for at the time, the date the good is received and/or the service rendered would be reflected as

the date of the debt on the *Debts and Obligations Owed by the Committee* form (**CRO-1610**). Failure to provide this information is a failure to provide disclosure. The definition of expenditure includes a pledge, contract, promise or other obligation to make an expenditure. Therefore, the date of such pledge, contract, or promise is the date that should be reflected on the *Debts and Obligations Owed by the Committee* form.

A “Committee” may not close until all debts and obligations have been paid by the “Committee”. Any debt or obligation that is not paid would be considered a contribution to the “Committee”. Contributions over the limitation and from prohibited contributors would result in violations by the “Committee”.

Notices of Reports Due

All Referendum Committees that are registered in North Carolina will receive notices for all reports due. All notices are sent to the current treasurer of record. Referendum Committees that change treasurers without notifying the appropriate Board of Elections office may not receive notices of reports being due. In addition, failure to provide notification of a treasurer change is a violation of disclosure law.

Reports to be Certified/Filed Timely

All disclosure reports must be certified by the treasurer as true and accurate. No longer are disclosure reports required to be notarized. An original signature below the certification statement contained on the *Disclosure Report Cover Sheet* (**CRO-1000**) serves as certification that the report being submitted is true and accurate as filed.

Disclosure reports are considered filed timely if they are hand delivered by the due date of the report or postmarked by the due date of the report. Disclosure reports must be filed at the appropriate Board of Elections office. Failure to do so could result in penalties for late filings. If a report only bears a meter mark, the date the report is received in the appropriate Board of Elections office will be the date filed. If that date is after the due date, the report will be considered late. All reports not postmarked on or before the due date or not received by the appropriate Board of Elections office on or before the due date will be considered late and assessed penalties for late filing.

Any treasurer that intentionally files a report late in order to conceal contributions or expenditures is subject to the assessment of civil penalties and the cost of any investigation. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

The Campaign Finance Office of the State Board of Elections **strongly encourages** treasurers to send all disclosure reports by certified mail. In the event a postmark is not legible or a report is lost in the mail, the certified mail receipt will serve as proof of timely filing.

Civil Penalties

Referendum Committees may receive penalties for late filed reports. A Referendum Committee's report that does not affect a statewide election would be penalized at \$50 per day not to exceed \$500. A report is considered to affect a statewide election if the "Committee" made any contributions to or in support of a statewide ballot issue or received any contributions from a statewide candidate or other political committee. If the Referendum Committee did file a report that affected a statewide election, the "Committee" would be penalized at a rate of \$250 per day not to exceed \$10,000. In calculating penalties, only days the office is open are counted toward the penalty amount.

Failure to pay assessed penalties could result in the "Committee" having their active status terminated. Once the status of the "Committee" is terminated, the "Committee" is not eligible to receive contributions or make expenditures.

Inactive Status

Referendum Committees that do not desire to disburse all funds and close their "Committee", but also do not intend to receive any contributions or make any expenditures for a period of time, may file a *Certification of Inactive Status* form (**CRO-3200**). By filing this form, the "Committee" certifies that they will remain inactive (not receiving any contributions or making any expenditures) until a *Certification to Return to Active Status* form (**CRO-3300**) is filed. During the time the "Committee" is Inactive, disclosure reports are not required to be filed. If at some point the "Committee" intends to receive contributions or make expenditures, the *Certification to Return to Active Status* form should be completed and all subsequent disclosure reports should be filed.

Closing the Committee

Referendum Committees that wish to close their committee may do so at any time. In order to close the committee, all funds in the bank account must be disbursed and a "Final Report" will be required to be filed in addition to the *Certification to Close Committee* form (**CRO-3400**). If the Referendum Committee has funds they need to distribute in order to close the account and Committee and they wish to disburse such funds to another organization, the Treasurer of the Referendum Committee must request in writing from the Executive Director of the State Board of Elections permission to disburse the

funds to the desired organization. If the Referendum Committee received any funds from entities not allowed to contribute to other political committees (such as business or corporate entities), or in amounts not allowed by other PACs, a disbursement may not be made to another political committee. The “Final Report” reflects all activities starting with the first day not covered on the last report and ending on the day the last disbursement is made, or if the decision to close the committee occurred after the last disbursement, the date of the decision would be the end of the reporting period.

After the required paperwork has been filed by the Committee with the appropriate board of elections office, the treasurer will consider the Committee “closed pending” until a letter has been sent by the Campaign Finance Office of the State Board of Elections stating that a final audit has been conducted and the Committee is considered “closed”. The treasurer should maintain all records for the next two years.

State Referendum Committees

Reporting Schedule

This schedule is for all referendum committees registered with the State Board of Elections

- | | |
|--|--|
| <ul style="list-style-type: none">• Within 10 days | Organizational Report |
| <ul style="list-style-type: none">• 10 days preceding the Referendum | Pre-Referendum Report <ul style="list-style-type: none">• <i>Required from all registered referendum committees participating in the current referendum.</i>• <i>Covers last report through seven days prior to the report due date.</i> |
| <ul style="list-style-type: none">• Due within 48 hours | 48-Hour Reports <ul style="list-style-type: none">• <i>Required from all registered referendum committees participating in the current referendum that receive a contribution of \$1,000 or more after the Pre-Referendum Report.</i>• <i>Covers the date(s) of the contributions.</i> |
| <ul style="list-style-type: none">• 10 days after the Referendum | Final Report <ul style="list-style-type: none">• <i>Required from all registered referendum committees participating in the current referendum.</i> |
| <ul style="list-style-type: none">• January 7th after the Referendum | Supplemental Final Report <ul style="list-style-type: none">• <i>Required if the Final Report did not disclose a balance of zero.</i>• <i>Report should cover through December 31 after the Referendum.</i> |
| <ul style="list-style-type: none">• January 7th | Annual Reports <ul style="list-style-type: none">• <i>Due on this day if a zero balance has not been reported on a prior report.</i> |

Where do I file these reports?

All reports should be filed with the Campaign Finance Office of the State Board of Elections at 506 North Harrington Street, Raleigh, NC 27603.

Mailing address: PO Box 27255, Raleigh, NC 27611-7255

Phone: 919-733-7173

County/Municipal Referendum Committees

Reporting Schedule

This schedule is for all referendum committees registered with a county or municipal board of elections office.

- **Within 10 days** **Organizational Report**
- **10 days preceding the Referendum** **Pre-Referendum Report**
 - *Required from all registered referendum committees participating in the current referendum.*
 - *Covers last report through seven days prior to the report due date.*
- **Due within 48 hours** **48-Hour Reports**
 - *Required from all registered referendum committees participating in the current referendum that receive a contribution of \$1,000 or more after the Pre-Referendum Report.*
 - *Covers the date(s) of the contributions.*
- **10 days after the Referendum** **Final Report**
 - *Required from all registered referendum committees participating in the current referendum.*
- **January 7th after the Referendum** **Supplemental Final Report**
 - *Required if the Final Report did not disclose a balance of zero.*
 - *Report should cover through December 31 after the Referendum.*
- **January 7th** **Annual Reports**
 - *Due on this day if a zero balance has not been reported on a prior report.*

Where do I file these reports?

All reports should be filed with the local board of elections office.

Refer to our website (www.sboe.state.nc.us) for the address of all county board of elections offices.

Media Requirements

Basic Disclosure Print, Radio, TV

- ❖ Every advertisement appearing in the print media, on television or on radio that constitutes a contribution or expenditure under the Campaign Reporting Act must state who paid for the ad. TV ads require a visual legend.
- ❖ The name that is used in saying who paid for an ad must be the formal name. The formal name appears on the statement of organization filed with the Board of Elections when the committee was formed.
- ❖ A sponsor must state whether or not an advertisement is authorized by a candidate if the ad is not paid for by the candidate or the candidate's committee and the ad supports or opposes a candidate. If the advertisement is not authorized by the candidate or the candidate's committee, the sponsor must indicate such.
- ❖ If the sponsor of the advertisement is the candidate the ad supports or that candidate's campaign committee, an authorization statement is not required.
- ❖ If an advertisement identifies a candidate the sponsor is opposing, the sponsor must also disclose in the advertisement the name of the candidate who is intended to benefit from the advertisement. This only applies if the sponsor of the advertisement coordinated or consulted with the candidate who is intended to benefit.
- ❖ If an advertisement is jointly sponsored, the disclosure statement must name all the sponsors.
- ❖ In a print media advertisement, the height of all disclosure statements must constitute at least 5% of the height of the printed space on the advertisement, provided that the type shall be at least 12 points in size. (This is 12 points in size.) Print advertisements appearing in the newspaper can satisfy this requirement if the disclosure is 28-point type. If the advertisement has more than one page, fold, or face, the statement only has to be on one of them.
- ❖ In a television ad the visual disclosure legend must constitute 32 scan lines in size.
- ❖ In a radio advertisement the disclosure statement shall last at least two seconds.
- ❖ In television and radio advertisements the candidate must speak the disclosure statement.

- ❖ The candidate must speak the disclosure statement only when the advertisement mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.
- ❖ Political party advertisements must include a disclosure statement spoken by the chair, executive director, or treasurer of the party organization. The same disclosure must be included when the sponsor is a political action committee, individual, or any sponsor.
- ❖ Misrepresentation of sponsorship or authorization is a Class 1 misdemeanor.

No declared candidate for Council of State offices effective January 1 in the election year for those offices shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains that declared candidate's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to that candidate's official function. "Declared" means a public announcement of an intention to run.

Simplified lists of the specific items that both require and do not require a legend and other disclosure are below.

Legend required:

- | | | |
|---|----------------------------------|------------------------------------|
| √ Newspaper ads | √ Periodicals | √ Magazines |
| √ Newspaper Inserts | √ TV ads | √ Cards* |
| √ Airplane streamers | √ Radio ads | √ Fliers* |
| √ Pamphlets | √ Outdoor advertising facilities | √ Mass mailings (over 500 pieces)* |
| √ Billboards | | |
| √ Sound-truck advertising | | |
| √ Portable signs (lighted or non-lighted; some on wheels to be pulled around) | | |

*These types of media advertisements are added to those requiring a legend and other additional disclosure for the first time in the 2000 Elections. In these media advertisements, the legend and other disclosure is required if the item, the pamphlet, flier, mailing, or card includes support or opposition to clearly identified candidates or the candidates of a clearly identified political party. A card, regardless of the size, that expressly advocates the election or defeat of a candidate must have a legend that is 5% of the height of the card, but no smaller than 12 point type. (This is 12-point type) Refer to N.C.G.S. 163-278.14A to determine advocacy.

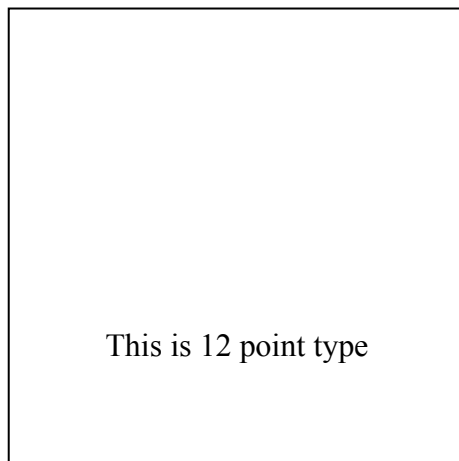
Legend not required:

x Buttons and bumper stickers
x Yard signs and window posters (approximately 14 x 22 inches and posters used in stores, on states in yards, etc.)
x Barn posters (3 x 5 feet, or similarly sized, used on the sides of buildings, on walls, etc., generally at no cost)
x Campaign paraphernalia such as balloons, shopping bags, nail files, etc., imprinted with a campaign message

Media Examples

Basic Requirement Examples for Print Media or Radio or TV Ads

Print Media



Disclosure must appear only once if more than one page, fold, or face in the ad.

The size of the disclosure statement must be either

- 5% of the height of the ad, or
- at least 12 point type;
- whichever is greater.

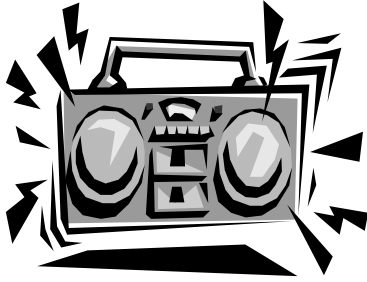
If print ads appear in the newspaper the Disclosure requirement can be satisfied with 28 point type.

Television



Disclosure statement must be 32 scan lines.

Radio



Disclosure statement must last 2 seconds.

ADVERTISEMENTS THAT SUPPORT CANDIDATES

Ads must clearly state whether the ad supports or opposes the candidate named.

<p>Vote for John Smith For Governor</p> <p>Paid for by Smith for Gov Campaign</p>	<p><i>Campaign Sponsored Ad</i></p> <p>Candidate sponsored ads must have as part of their disclosure statement that they are paid for by the candidate or the candidate’s campaign committee as it appears on the Statement of Organization.</p>
<p>Vote for John Smith For Governor</p> <p>Paid for by ABC Corp. Good Govt Committee</p>	<p><i>PAC or Party Sponsored Ad</i></p> <p>PAC or party sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none">• they are paid for by the political committee or party as the committee’s name appears on the Statement of Organization, and• the ad was or was not authorized by the candidate that ad supports (“Authorized by [name of candidate], candidate for [name of office]” or “Not authorized by a candidate”).

<p>Vote for John Smith For Governor</p> <p>Paid for by Jack Jones. Not authorized by a candidate</p>	<p>Individual Sponsored Ad</p> <p>Individual sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the name of the individual sponsor, and • the ad was or was not authorized by the candidate that ad supports (“Authorized by [name of candidate], candidate for [name of office]” or “Not authorized by a candidate”).
<p>Vote for John Smith For Governor</p> <p>Paid for by Jack Jones and James Brown. Authorized by John Smith, candidate for Governor</p>	<p>Joint Sponsored Ad</p> <p>Joint sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the names of all the individuals sponsoring the ad, and • the ad was or was not authorized by the candidate that ad supports (“Authorized by [name of candidate], candidate for [name of office]” or “Not authorized by a candidate”).

OPPOSING ADVERTISEMENTS NOT COORDINATED WITH CANDIDATE

Ads must clearly state whether the ad supports or opposes the candidate named.

<p>Don't Vote for John Smith For Governor</p> <p>Paid for by May Jones for House Campaign. Authorized by Mary Jones, candidate for House District 0</p>	<p>Campaign Sponsored Ad</p> <p>Candidate sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the candidate or the candidate’s campaign committee as it appears on the Statement of Organization, and • the ad was or was not authorized by the candidate that ad supports (“Authorized by [name of candidate], candidate for [name of office]” or “Not authorized by a candidate”).
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<p>Don't Vote for John Smith For Governor</p> <p>Paid for by ABC Corp. Good Govt Committee. Not authorized by a candidate</p>	<p><i>PAC or Party Sponsored Ad</i></p> <p>PAC or party sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the political committee or party as the committee's name appears on the Statement of Organization, and • the ad was not authorized by the candidate that ad supports ("Not authorized by a candidate").
<p>Don't Vote for John Smith For Governor</p> <p>Paid for by Jack Jones. Not authorized by a candidate</p>	<p><i>Individual Sponsored Ad</i></p> <p>Individual sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the name of the individual sponsor, and • the ad was not authorized by the candidate that ad supports ("Not authorized by a candidate").
<p>Vote for John Smith For Governor</p> <p>Paid for by Jack Jones and James Brown. Not authorized by a candidate</p>	<p><i>Joint Sponsored Ad</i></p> <p>Joint sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the names of all the individuals sponsoring the ad, and • the ad was not authorized by the candidate that ad supports ("Not authorized by a candidate").

OPPOSING ADVERTISEMENTS COORDINATED WITH CANDIDATE

Ads must clearly state whether the ad supports or opposes the candidate named. If the ad is coordinated with the candidate the ad supports, the ad must identify by name the candidate the ad is intended to support.

<p>Don't Vote for John Smith For Governor Support Jane Doe</p> <p>Paid for by Jones for House Campaign. Authorized by Jane Doe, candidate for Governor</p>	<p><i>Campaign Sponsored Ad</i></p> <p>Candidate sponsored ads must have as part of their disclosure statement that they are paid for by the candidate or the candidate's campaign committee as it appears on the Statement of Organization.</p>
<p>Don't Vote for John Smith For Governor Support Jane Doe</p> <p>Paid for by ABC Corp. Good Govt Committee. Authorized by Jane Doe, candidate for Governor</p>	<p><i>PAC or Party Sponsored Ad</i></p> <p>PAC or party sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the political committee or party as the committee's name appears on the Statement of Organization, and • the ad was authorized by the candidate that ad supports ("Authorized by [name of candidate], candidate for [name of office]").
<p>Don't Vote for John Smith For Governor Support Jane Doe</p> <p>Paid for by Jack Jones. Authorized by Jane Doe, candidate for Governor</p>	<p><i>Individual Sponsored Ad</i></p> <p>Individual sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the name of the individual sponsor, and • the ad was authorized by the candidate that ad supports ("Authorized by [name of candidate], candidate for [name of office]").

<p>Don't Vote for John Smith For Governor Support Jane Doe</p> <p>Paid for by Jack Jones and James Brown. Authorized by Jane Doe, candidate for Governor</p>	<p>Joint Sponsored Ad</p> <p>Joint sponsored ads must have as part of their disclosure statement that:</p> <ul style="list-style-type: none"> • they are paid for by the names of all the individuals sponsoring the ad, and • the ad was authorized by the candidate that ad supports (“Authorized by [name of candidate], candidate for [name of office]”).
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EXPANDED DISCLOSURE FOR RADIO AND TELEVISION

In addition to the basic disclosure requirements, RADIO/TV advertisements must abide by the following requirements.

The candidate must speak the disclosure statement, “I am candidate for _____ office, and I (or my campaign) sponsored this ad.” This is required only when the advertisement mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.

Political party advertisements must include a disclosure statement spoken by the chair, executive director, or treasurer of the party organization. “The _____ Party organization sponsored this ad opposing/supporting _____ candidate for _____ office.” The party name shall be as it appears on the ballot.

Political action committee advertisements must include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee. “The (name of political action committee) political action committee sponsored this ad opposing/supporting (name of candidate) for (name of office).” The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization.

Advertisements on television purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: “I am (individual’s name) and I sponsored this advertisement opposing/supporting (name of candidate) for (name of office).”

Advertisements on television by another sponsor.

Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: (Name of sponsor) sponsored this ad.

The television advertisements described above require an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, that is featured throughout the duration of the disclosure statement.

Placement of Disclosure Statement in Television and Radio Advertisements

The disclosure may be at any point during a TV advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The oral disclosure may be provided at the same time that the visual disclosure required by the FCC is shown, provided that the visual disclosure legend must be at least 32 scan lines in size. For radio ads, the placement of the oral disclosure statement shall comply with FCC requirements.

MEDIA EXAMPLES

Expanded Requirement Examples for TV or Radio

Television

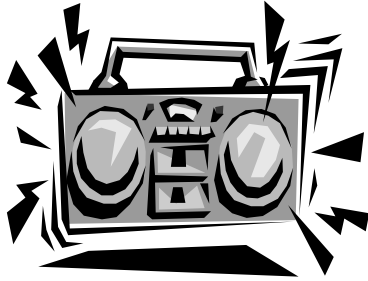


The disclosure statement must be 32 scan lines. The person making the disclosure statement must appear in a full-screen image, using either a photograph or actual appearance. This picture must be seen throughout the disclosure.

A sponsoring candidate must disclose her/his name and office for which she/he is running in any ad paid by the candidate or the candidate's committee in which an opposing candidate for the same office is mentioned, heard, seen, or otherwise referred to.

A sponsor may place the disclosure statement at any time during the ad, except that if the duration of the ad is more than 5 minutes, the statement shall be made both at the beginning and end of the advertisement. Placement of the visual disclosure must comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

Radio



Disclosure is verbal and must last at least 2 seconds.

A sponsoring candidate must disclose her/his name and office for which she/he is running in any ad paid by the candidate or the candidate's committee in which an opposing candidate for the same office is mentioned, heard, seen, or otherwise referred to.

A sponsor may place the disclosure statement at any time during the ad, except that if the duration of the ad is more than 5 minutes, the statement shall be made both at the beginning and end of the advertisement. Placement of the oral disclosure must comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

Responsibilities of the Media

Article 22A of Chapter 163 of the General Statutes, specifically GS § 163-278.17, states that it shall be the responsibility of the media outlet to require written authority for each expenditure from each candidate, treasurer, or other individual authorizing an expenditure. Refer to the definition of “communications media or media” in the Definition section of this manual for those outlets that would be required to obtain this written authority.

Media authorizations obtained by media outlets are considered public records and must be made available to the public for inspection during normal business hours. Failure to comply with this statute is a class 2 misdemeanor.

A sample “Media Authorization Form” is included for use by media outlets. Questions concerning media responsibilities should be directed to the Campaign Finance Office of the State Board of Elections.

NEWSPAPER NAME: _____ DATE: _____

AUTHORIZATION FOR POLITICAL ADVERTISING IN ABOVE NEWSPAPER

I, _____, hereby authorize the publication of advertisement(s) on behalf of the candidacy of _____, who is seeking the office of _____. I further certify that I am authorized to place this advertisement in accordance with the Campaign Reporting Act of the General Statutes of North Carolina.

The advertising is for publication on the following date(s): _____.

Amount paid for advertising in this certification and/or authorization: \$_____.

Check Number _____. Account listed as:_____.

SIGNED _____
(Candidate, treasurer or individual authorizing expenditure)

Title _____

Address _____

City _____ State _____ Zip _____

If agency/public relation firm, please complete the following:

Name of Agency _____

Address _____

City _____ State _____ Zip _____

Electioneering Communications

What is an electioneering communication?

An electioneering communication is any broadcast, cable, satellite communication, mass mailing or phone bank that has all of the following characteristics:

1. Refers to a clearly identified candidate for a statewide office or the General Assembly. It does not expressly advocate for the election or defeat of the candidate.
2. Is aired or transmitted within 30 days of a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate, or 60 days before a general election or special election for the office sought by the candidate.
3. Is targeted to the relevant electorate.
 1. With respect to any broadcast, cable or satellite communication, this means the communication can be received by 50,000 or more individuals in the State in the case of the candidacy for statewide office and 7,500 or more individuals in the district in the case of the candidacy for General Assembly.
 2. With respect to mass mailings and telephone banks, it is a bit more involved:
 - Statewide races
 - Transmitted by mail or facsimile to a cumulative total of 50,000 or more addresses in the State, items identifying one or more candidates in the same race within any 30-day period; or
 - Making a cumulative total of 50,000 or more telephone calls in the State identifying one or more candidates in the same race within any 30-day period.
 - General Assembly races
 - Transmitted by mail or facsimile to a cumulative total of 2,500 or more addresses in the district, items identifying one or more candidates in the same race within any 30-day period.
 - Making a cumulative total of 2,500 or more telephone calls in the district identifying one or more candidates in the same race within any 30-day period.

What communications are not considered electioneering communications?

1. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.

2. A communication that constitutes an expenditure or independent expenditure under Article 22A.
3. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board, or that solely promotes the debate or forum, and is made by or on behalf of the person sponsoring the debate or forum.
4. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
5. A communication that does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; does not take a position on the candidate's character or qualifications and fitness for office; and proposes a commercial transaction.

Disclosure Requirements for Electioneering Communications

Every entity that incurs an expense for the direct costs of producing or airing electioneering communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of each disclosure date¹, file with the Board a statement that provides the following information:

1. The identification of the entity incurring the expense, any entity that shares or exercises direction or control over the activities of that entity, the custodian of the books, and the accounts of the entity incurring the expense.
2. The principal place of business of the entity incurring the expense if the entity is not an individual.
3. The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement, and the identification of the entity to whom the expense was incurred. The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified. The names and addresses of all entities that provided funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000), during the period beginning the first day of the preceding calendar year and ending on the disclosure date, to a segregated bank account that consists of funds provided solely by entities other than prohibited sources. If the provider is an individual, occupational information must be provided.

Assistance identifying an electioneering communication

Yes. An entity that produces a communication to be distributed to the relevant electorate within the time periods listed above may, but is not required to, ask the State

¹ The disclosure date means either of the following: (a) The first date during any calendar year when an electioneering communication is aired after an entity has incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000). (b) Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.

Board of Elections for a determination as to whether or not that communication is an electioneering communication prior to the airing of that communication.

Are there prohibitions on the funds that can be used for electioneering communications?

No prohibited source² may make any disbursement for the costs of producing or airing any electioneering communication. No entity which has received any funds or anything of value whatsoever from a prohibited source may make any disbursement for the costs of producing or airing any electioneering communication, unless that entity maintains a segregated bank account that consists of funds provided solely by entities other than prohibited sources. An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication. The prohibition limiting the sources of funds to be used for an electioneering communication does not apply unless the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Are there penalties for non-compliance?

Yes. Failure to comply with the disclosure requirements and restrictions placed on electioneering communications could result in criminal and civil penalties.

² A prohibited source is defined as any corporation, insurance company, labor union, or professional association.

Candidate-Specific Communications

What is a candidate-specific communication?

A candidate-specific communication is any broadcast, cable, satellite communication, mass mailing or phone bank that has all of the following characteristics:

1. Refers to a clearly identified candidate for a statewide office or the General Assembly. It does not expressly advocate for the election or defeat of the candidate.
2. Is transmitted in an even-numbered year after the final date on which a Notice of Candidacy can be filed for the office and through the day on which the general election is conducted, excluding the time period 30 days prior to a primary election and 60 days prior to a general election.
3. Is targeted to the relevant electorate.
 1. With respect to any broadcast, cable or satellite communication, this means the communication can be received by 50,000 or more individuals in the State in the case of the candidacy for statewide office and 7,500 or more individuals in the district in the case of the candidacy for General Assembly.
 2. With respect to mass mailings and telephone banks, it is a bit more involved:
 - Statewide races
 - Transmitted by mail or facsimile to a cumulative total of 50,000 or more addresses in the State, items identifying one or more candidates in the same race within any 30-day period; or
 - Making a cumulative total of 50,000 or more telephone calls in the State identifying one or more candidates in the same race within any 30-day period.
 - General Assembly races
 - Transmitted by mail or facsimile to a cumulative total of 2,500 or more addresses in the district, items identifying one or more candidates in the same race within any 30-day period.
 - Making a cumulative total of 2,500 or more telephone calls in the district identifying one or more candidates in the same race within any 30-day period.

What communications are not considered candidate-specific communications?

1. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.

2. A communication that constitutes an expenditure or independent expenditure under Article 22A.
3. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes the debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
4. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
5. An electioneering communication as defined in Articles 22E and 22F of Chapter 163 of the North Carolina General Statutes.
6. A communication that does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; does not take a position on the candidate's character or qualifications and fitness for office; and proposes a commercial transaction.

Disclosure requirements for candidate-specific communications

Every entity that incurs an expense for the direct costs of producing or airing candidate-specific communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of each disclosure date³, file with the Board a statement that provides the following information:

1. The identification of the entity incurring the expense, any entity that shares or exercises direction or control over the activities of that entity, the custodian of the books, and the accounts of the entity incurring the expense.
2. The principal place of business of the entity incurring the expense if the entity is not an individual.
3. The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to which the expense was incurred.
4. The candidates in the candidate-specific communications that are identified or are to be identified.
5. The names and addresses of all entities that provided funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning the first day of the preceding calendar year and ending on the disclosure date to a segregated bank account that consists of funds provided solely by entities other than prohibited sources. If the provider is an individual, occupational information must be provided.

³ The disclosure date means either of the following: (a) The first date during any calendar year when a candidate-specific communication is aired after an entity has incurred expenses for the direct costs of producing or airing candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000). (b) Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or airing candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.

Is my communication a candidate-specific communication?

An entity that produces a communication to be distributed to the relevant electorate within the time periods listed above may, but is not required to, ask the State Board of Elections for a determination as to whether or not that communication is a candidate-specific communication prior to the airing of that communication.

Are there prohibitions on the funds that can be used for candidate-specific communications?

There are no prohibitions on the source or amount of funds that can be used to make disbursements for a candidate-specific communication.

Are there penalties for non-compliance?

Yes. Failure to comply with the disclosure requirements placed on candidate-specific communications could result in criminal and civil penalties.

NORTH CAROLINA PUBLIC FUNDING PROGRAMS

Alternative Campaign Financing

North Carolina State Board of Elections

Campaign Finance Office

***North Carolina State Board of Elections
Campaign Finance Office
506 North Harrington Street
Raleigh, NC 27603
919-733-7173
FAX 919-715-8047***

Gary O. Bartlett
Executive Director

Kim Westbrook Strach
Deputy Director

The following manual provides detailed information about public funding programs currently available in North Carolina. Public funding is limited to offices identified in the two current Programs. Both Funds are administered by the State Board of Elections with the advice of the Advisory Council.

State Board of Elections Members

Larry Leake, Chairman
Robert Cordle, Secretary
Anita S. Earls
Bill W. Peaslee
Charles Winfree

Advisory Council Members

Willis Whichard, Chairman
Loretta Biggs
Wallace Respass
Thomas Ross
Vacant

***A CANDIDATE’S GUIDE to the
North Carolina Public
Campaign Fund Program***

*Public Funding for
Statewide Appellate Candidates*

Overview of the North Carolina Public Campaign Fund Program

The North Carolina General Assembly passed legislation in 2002 to establish a public financing fund for candidates for the North Carolina Court of Appeals and the North Carolina Supreme Court. According to NCGS 163-278.61, the purpose of the Fund “is to ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, those effects being especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts.” The North Carolina Public Campaign Fund is “an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fund-raising and spending limits.”

The North Carolina Public Campaign Fund Program is completely voluntary. Therefore, participating candidates may have opponents that are not participating in the Program and are not subject to the same restrictions on fundraising and spending as those candidates participating in the Program. However, the Program does have mechanisms in place to assist participating candidates who have opponents that are “outspending” them.

In order to participate in the Program, a candidate for an eligible office must abide by certain regulations prior to qualifying for the Program. In addition, certain criteria must be met during an established “qualifying period” by participating candidates and after a candidate has been “certified.” Additional regulations must be followed throughout the duration of the campaign. All of these regulations are set forth in this guide.

All candidates for seats on the North Carolina Court of Appeals and the North Carolina Supreme Court are subject to lower contribution limitations than other candidates. Those candidates participating in the Program are subject to more limitations on both their campaign spending and fundraising.

Another facet of this Program is the distribution of a Voter Guide to every household in North Carolina; this sets forth the purpose of the Public Campaign Fund along with an explanation of the functions of the appellate courts, the method and laws for the election of appellate

judges, and information on all candidates for the North Carolina Court of Appeals and North Carolina Supreme Court.

The following pages will provide specific information about the mechanics of the Program, answers to potential questions about various aspects of the Program, and other information about campaign finance laws.

How is the Program funded?

The North Carolina Public Campaign Fund is not funded by the General Fund of North Carolina. In addition to distributions to qualified candidates, all expenses for the program's implementation, including staff and voter guide production and distribution, are paid by the Public Campaign Fund. There are six sources that provide revenue to the Fund:

- The *first source* deposited into the Fund was the balance of the North Carolina Candidates Fund. This fund is no longer operational.
- The *second source* deposited into the Fund is designations to the Public Campaign Fund by taxpayers. This is achieved through a positive check-off of three dollars on an individual's income tax form.
- The *third source* is from attorneys paying a \$50 surcharge at the time of payment for their privilege license to practice law in North Carolina. This surcharge is mandatory.
- The *fourth source* is from Fund revenues that were distributed to candidates but were not spent or committed at the time a candidate is no longer considered a certified candidate. These funds are required to be returned by the candidate.
- The *fifth source* is from any funds ordered to be returned to the Fund as a result of a violation by a "participating candidate" in the Program.
- The *sixth source* is from any voluntary donation made directly to the Public Campaign Financing Fund. Any corporation, business entity, labor union, or professional association may voluntarily make a donation of any amount to this Fund.

How is the Fund and Program managed?

In order to provide necessary oversight, the State Board of Elections, with the advice of a five-member Advisory Council, administers the provisions of the North Carolina Public Campaign Fund Program. The Advisory Council consists of the following:

- *Two members* appointed by the Governor from a list provided by the State Chair of the political party with which the greatest number of registered voters in North Carolina are affiliated;

- *Two members* appointed by the Governor from a list provided by the State Chair of the political party with which the second greatest number of registered voters are affiliated;
- The *fifth member* is chosen by the State Board of Elections through a unanimous vote. If the State Board of Elections cannot select the fifth member by unanimous vote, then the Advisory Council shall consist of only four members.

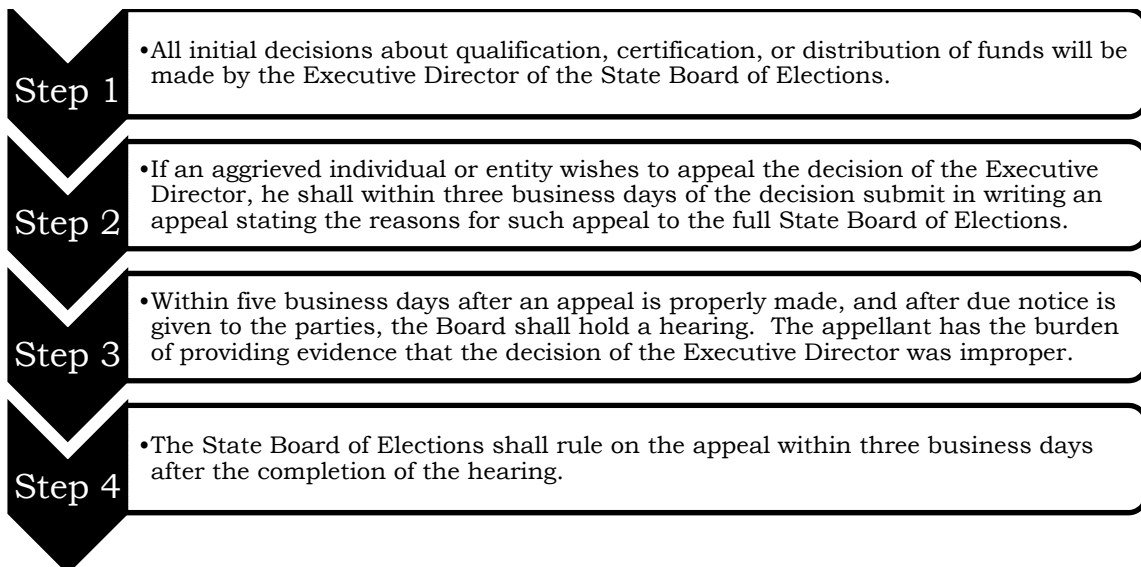
All members are appointed to serve a four-year term, with no member serving more than two full terms.

The Advisory Council shall elect a Chair to serve at all meetings. If a vacancy should occur during an unexpired term of a member, it shall be filled in the same manner as the original appointment of that member. The term of the vacancy appointment would only be for the unexpired portion of the term.

The Advisory Council’s primary function is to advise the State Board of Elections on the rules, procedures and opinions adopted for administration and enforcement of the Program. The State Board of Elections will also be advised of funding needs of the Program by the Advisory Council.

The Appeals Process

The Executive Director for the State Board of Elections and the State Board of Elections both play roles in the appeals process with matters concerning the Program. The following illustrates the process by which each appeal will be addressed:



Duties of the State Board of Elections and Advisory Council

State Board of Elections

- Adopt rules and issue opinions to ensure effective administration of the Program. Examples of rules and opinions may include, but are not limited to, procedures for:
 1. Obtaining qualifying contributions
 2. Certification of candidates
 3. Addressing circumstances involving special elections
 4. Vacancies
 5. Recounts
 6. Withdrawals
 7. Replacements
 8. Collection of revenues for the Fund
 9. Distribution of Fund revenue to certified candidates
 10. Return of unspent Fund disbursements
 11. Other compliance issues with Article 22D of Chapter 163 of the North Carolina General Statutes
 12. Distribution of matching funds

Each of these duties must be fulfilled in consultation with the Advisory Council.

Advisory Council

- Shall issue a report on March 1 and every two years evaluating the implementation of the Article and making recommendations about expanding the provisions to other candidates for State office. These recommendations should be based upon the experiences of the Fund and the experiences of other states implementing similar programs.
- Evaluate and make recommendations on how to address activities that may undermine the purpose of the Program and Article 22D.

Treasurer and Candidate Training Opportunities

North Carolina law provides that every treasurer of a North Carolina political committee must receive training within three months of appointment. Further, the treasurer may not sign a disclosure report until that treasurer has received the required training. Candidates who wish to sign disclosure reports must also take the required training. Treasurer training can be completed in person at the State Board of Elections, at regional locations across the State, and through an on-line interactive session.

The current training does not include specific information about the North Carolina Public Campaign Fund. However, candidates can make appointments to receive individualized guidance on the administration of the Fund and training sessions will be scheduled at the State Board of Elections specifically to address the administration of the North Carolina Public Campaign Fund. This training is open to all candidates, their treasurers and any other interested parties that may wish to know more about the Fund and its implementation. In order to register for the training sessions, please go to our website at www.sboe.state.nc.us and click on Campaign Finance. Information about the training and instructions for registration are provided.

Mechanics of the Program

Definitions of Key Terms (as taken from GS 163-278.62)

- *Board*- The State Board of Elections.
- *Candidate*- Any individual who, with respect to a public office ..., has taken positive action for the purpose of bringing about that individual's nomination or election to public office. Examples of positive action include:
 - filing a notice of candidacy or a petition requesting to be a candidate,
 - being certified as a nominee of a political party for a vacancy,
 - otherwise qualifying as a candidate in a manner authorized by law,
 - making a public announcement of a definite intent to run for public office in a particular election,
 - or receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. The term includes a political committee authorized by the candidate for that candidate's election.
- *Certified Candidate*- A candidate running for office who chooses to receive campaign funds from the Fund who is certified under GS 163-278.64(c). (see Certification of Candidate section)
- *Contested primary and contested general election*- An election in which there are more candidates than the number to be elected. A distribution from the Fund pursuant to Article 22D is not a "contribution" and is not subject to the limitations of GS 163-278.13 or the prohibitions of GS 163-278.15 or GS 163-278.19.

- *Electioneering communication*- Any broadcast, cable, satellite communication, mass mailing or telephone bank that has all of the following characteristics:
 - Refers to a clearly identified candidate for a statewide office or the General Assembly or statewide judicial office.
 - Is aired or transmitted within one of the following time periods:
 - 60 days before absentee ballots become available for a general election and ending on the date of the general election;
 - 30 days before absentee ballots become available for a primary and ending on primary election day.
 - Is targeted to the relevant electorate.
- *Expenditure*- Any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term “expenditure” also includes any payment or other transfer made by a candidate, political committee, or referendum committee.
- *Fund*-The North Carolina Public Campaign Fund as established in GS 163-278.63.
- *Independent Expenditure*- An expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is made without consultation or coordination with a candidate or agent of a candidate whose nomination or election the expenditure supports or whose opponent’s nomination or election the expenditure opposes. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure.
- *Maximum qualifying contributions*- An amount of qualifying contributions equal to 60 times the filing fee for candidacy for the office.
- *Minimum qualifying contributions*- An amount of qualifying contributions equal to 30 times the filing fee for candidacy for the office.
- *Nonparticipating candidate*- A candidate running for office who is not seeking to be certified. (see Certification of Candidate section)

- *Office*- A position on the North Carolina Court of Appeals or North Carolina Supreme Court.
- *Participating candidate*- A candidate for office who has filed a declaration of intent to participate under GS 163-278.64.
- *Political committee*- The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:
 - a. Is controlled by a candidate;
 - b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
 - c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
 - d. Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee. If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

- *Qualifying contribution*- A contribution of not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00) in the form prescribed for noncash monetary contributions in G.S. 163-278.14(b) to the candidate or the candidate's committee that meets both of the following conditions:
 - a. Made by an individual who is a registered voter in this State at the time of the submittal of the report specified in G.S. 163-278.64(c).
 - b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.
- *Qualifying period*- The period beginning September 1 in the year before the election and ending the day of the primary of the election year.
- *Referendum committee*- A combination of two or more individuals such as a committee, association, organization, or other entity or a

combination of two or more business entities, corporations, insurance companies, labor unions, or professional associations such as a committee, association, organization, or other entity the primary purpose of which is to support or oppose the passage of any referendum on the ballot. If the entity qualifies as a “referendum committee” under this subsection, it continues to be a referendum committee if it receives contributions or makes expenditures or maintains assets or liabilities. A referendum committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

- *Trigger for matching funds*- The dollar amount at which matching funds are released for certified candidates. In the case of a primary, the trigger equals the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under GS 163-278.65(b). (see *How do I receive funds from the Program?* section)

Who may participate in the Program?

- A candidate for North Carolina Court of Appeals or North Carolina Supreme Court who desires to participate in the North Carolina Public Campaign Fund Program.
- The candidate must be eligible to receive funds from this Program.
- Upon making the determination to participate in the Program, a candidate must be able to certify that since January 1st of the year before the election he or she has received no more than ten thousand dollars (\$10,000) from sources and in amounts permitted by law and has not expended more than ten thousand dollars (\$10,000) for any campaign purpose. For elections taking place in 2010, January 1, 2009 would be the relevant date. If either of these limits have been exceeded, a candidate would be ineligible to receive funds from the Program.

How do I participate in the Program?

- If the above criteria have been met, a candidate must first file a **Declaration of Intent** during the qualifying period and before collecting any qualifying contributions. The qualifying period begins on September 1 of the year before the election. For an election taking place in 2010, the qualifying period would begin on September 1, 2009. The qualifying period ends on the day of the primary in 2010. The **Declaration of Intent** may be filed at any time during this qualifying period, but absolutely no qualifying contributions may be received prior to the filing of the **Declaration of Intent**.

Contents of the Declaration of Intent

The candidate will swear or affirm that:

- Only one political committee, identified with a treasurer, will handle all contributions, expenditures, and obligations for the participating candidate;
- No qualifying contributions have been collected prior to the filing of the statement;
- No contributions have been collected in excess of \$10,000 and no expenditures have been made in excess of \$10,000;
- All contributions received since January 1, 2009 were from permitted sources and in permitted amounts;
- The candidate will comply with the contribution and expenditure limits and other requirements set forth in Article 22D or adopted by the Board. Failure to comply would be a violation of Article 22D.

- After the **Declaration of Intent** has been filed, the candidate is now defined as a “participating candidate.” The participating candidate must obtain qualifying contributions during the qualifying period in order to become a “certified candidate.”

Requirements for Qualifying Contributions

- Must obtain separate contributions from at least 350 registered voters of North Carolina. Each contributor must provide his or her full name, mailing address, phone number, and county of residence.
- Each qualifying contribution may be no less than ten dollars (\$10) nor more than five hundred dollars (\$500). Multiple contributions from the same contributor to the same candidate shall not exceed \$500, unless the contributor is the candidate or their spouse, parent, child, brother or sister. Up to \$500 of a contribution from a candidate's family member may be treated as a qualifying contribution if it otherwise meets the requirements for qualifying contributions.
- Each qualifying contribution must be made with a noncash form of payment. No cash may be accepted.
- All qualifying contributions must be made during the qualifying period and must be obtained with the approval of the candidate or candidate's committee.
- The aggregate sum of the qualifying contributions may be no less than the minimum qualifying contribution sum, which is 30 times the filing fee for the office.
 - A candidate for the North Carolina Court of Appeals minimum qualifying contribution sum in 2009-2010 is \$39,450.00.
 - A candidate for an Associate Justice seat on the North Carolina Supreme Court has a minimum qualifying contribution sum in 2009-2010 of \$41,160.00.
- The aggregate sum of the qualifying contributions may be no more than the maximum qualifying contribution sum, which is 60 times the filing fee for the office.
 - A candidate for the North Carolina Court of Appeals maximum qualifying contribution sum in 2009-2010 is \$78,900.00.
 - A candidate for Associate Justice of the North Carolina Supreme Court has a maximum qualifying contribution sum of \$82,320.00 in 2009-2010.
- No payment, gift, anything of value, or the opportunity to win anything of value shall be given in exchange for a qualifying contribution.
- All qualifying contributions will be disclosed in a Qualifying Report filed electronically with the State Board of Elections.
- Participating candidates may receive contributions less than ten dollars (\$10). These contributions are not qualifying contributions and are not considered in meeting the minimum contribution sum. However, the total contributions of amounts under ten dollars (\$10) and all qualifying contributions may not exceed the maximum qualifying sum.

- From the filing of the **Declaration of Intent** through the end of the qualifying period, a candidate shall expend no more than an amount equal to the maximum qualifying contributions for that candidate (\$78,900.00 for North Carolina Court of Appeals candidates and \$82,320.00 for candidates for Associate Justice of the North Carolina Supreme Court), not including possible matching funds or any remaining “seed” money raised during the period from January 1st through the filing of the **Declaration of Intent**.
- During the qualifying period, the candidate may contribute up to one thousand dollars (\$1,000) of that candidate’s own money to the campaign. Debt incurred by a candidate or payments for campaign expenses by a candidate count toward the \$1,000 limit. The candidate may accept in contributions one thousand dollars (\$1,000) from each member of that candidate’s family including the candidate’s spouse, parent, child, brother and sister. Up to \$500 of a contribution from the candidate’s family member may be treated as a qualifying contribution if it otherwise meets the requirements for a qualifying contribution.
 - *Any contribution received by a participating or certified candidate that does not meet the criteria outlined in this process must be returned to the donor as soon as practicable. This has been defined as within five days of receipt of the contribution. Contributions intentionally made, solicited, or accepted in violation of Article 22D are subject to civil penalties.*
- After the qualifying contributions have been received and recorded, a Qualifying Report must be submitted electronically to the Campaign Finance Office of the State Board of Elections for certification evaluation. This report must contain the required information for all qualifying contributors. Required information includes the name, address, phone number, county of residence, and birth date or voter registration number of each contributor, the amount of the contribution and the method of payment. A copy of the form of payment of each qualifying contribution should be submitted with the qualifying report.
- Upon receipt of the Qualifying Report the certification evaluation will begin. The Board shall certify candidates complying with the program’s requirements no later than five business days after receipt of a satisfactory record of demonstrated support. The following are the requirements for certification:

Certification Requirements

- Signed and filed **Declaration of Intent**.
- Submitted Qualifying Report listing the appropriate number of qualifying contributions in the appropriate amounts from registered voters of North Carolina. This information will be verified by State Board staff. A copy of the form of payment of each qualifying contribution should be submitted with the qualifying report.
- Filed a valid Notice of Candidacy for the seat sought as provided in Article 25 of Chapter 163 of the North Carolina General Statutes.
- Complied with all other campaign finance laws.

- After the qualifying period and through the date of the general election, the candidate may expend only the funds the candidate receives from the Fund plus any funds remaining from the qualifying period and any matching funds.

Other Restrictions on Expenditures by Participating and Certified Candidates

Article 22A of Chapter 163 of the North Carolina General Statutes contains the regulations concerning contributions and expenditures in political campaigns. Specifically, N.C. Gen. Stat. 163-278.16B provides the permitted purposes for which a candidate or candidate campaign committee may spend funds. It was not until October 1, 2006, that North Carolina placed restrictions on how candidates and their campaign committees spent their funds. Candidates participating in public funding must limit their expenditures to the purposes provided in N.C. Gen. Stat. 163-278.16B and additional restrictions made by the Board.

The State Board has provided guidelines for determining permissible expenditures. If a participating or certified candidate is unsure if an intended expenditure falls within these guidelines, a request for an opinion should be made to the State Board of Elections.

The designated treasurer for the participating or certified candidate should maintain receipts documenting every disbursement from the campaign account. These receipts may be needed if a complaint is filed or the State Board of Elections has any questions about the expenditures of a committee.

Nonparticipating candidates are not limited to the expenditure guidelines below. However, these candidates must comply with the expenditure guidelines set forth in N.C. Gen. Stat. 163-278.16B and must continue to fully disclose all expenditures with the full name and

address of the payee, date of disbursement, amount of disbursement and specific purpose of the disbursement. Participating and certified candidates will also be required to provide this information on all campaign finance reports filed.

The Expenditure Guidelines chart addresses specific expenditures and their permissibility. As stated above, if a candidate or committee has a question as to whether it would be permissible to make a specific expenditure, a written request for guidance is recommended. Please contact the Campaign Finance Office of the State Board of Elections with any questions.

Campaign-Related Expenditure Guidelines

<i>Allowed</i>	<i>Prohibited</i>
Advertisement expenditures including all “print media”	Expenditures to any political party or political committee, except as provided by these guidelines
Campaign headquarters expenses including lease and utilities	Independent Expenditures
Office supplies for administration of current campaign	Loans not associated with the current candidacy
Campaign staff expenses including salaries and food for staff and/or volunteers	Any gift to another that is not given for a campaign-related purpose
Travel expenses for candidate and staff including mileage, lodging and reimbursement for campaign events and appearances	A capital asset that is not used to promote the current candidacy
Consulting services, accounting services, clerical services, polling and other campaign advisory services	Any civil penalty or costs incurred as a result of civil penalties assessed against the candidate or committee
Candidate may jointly pay for media expenses as long as each candidate pays an equal amount so that no candidate receives an in-kind contribution.	
Purchase of tickets to attend events for the purpose of campaigning, the cost of which are reasonably related to the benefits received. (<i>An expense of \$200 or less is presumed reasonable.</i>)	

Any expenses incurred by the candidate for fundraising activities for the current campaign.	
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Limitations on Contributions for Candidates NOT participating in the Program

With the creation of Article 22D came a significant change to Article 22A concerning contribution limitations for judicial candidates. Previously, all candidates, political committees, and individuals could contribute \$4,000 per election to any candidate or other political committee. The candidate, the candidate's spouse, parents or siblings could contribute unlimited amounts to the candidate's political committee. The change in the law applies to candidates for the North Carolina Supreme Court and the North Carolina Court of Appeals. Candidates for these offices are now limited to accepting contributions up to \$1,000 for any election, except that a candidate may accept a contribution of \$2,000 in an election from the candidate's parent, child, brother or sister. The candidate and the candidate's spouse are not limited in the amount that they can contribute to the candidate's campaign.

How do I receive funds from the Program?

- The State Board of Elections will distribute revenue from the Fund within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election.
 - North Carolina Court of Appeals candidates will receive **\$164,400.00** (125 times the filing fee) for the 2010 general election;
 - North Carolina Supreme Court Associate Justice candidates will receive **\$240,100.00** (175 times the filing fee) for the 2010 general election.

*If the revenue in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionately, according to each candidate's eligible funding. Additionally, the candidate will be permitted to raise funds up to the total amount her or she would have received if adequate funding had been available.

What are my Campaign Finance Reporting requirements?

Non-certified Candidate Reporting Requirements

- In addition to the standard campaign finance reporting schedule, a non-certified candidate who is opposed by a certified candidate must file a campaign finance report by fax or electronically within 24 hours after the total amount of contributions received exceeds 80% of the trigger for matching funds. This amount would be 80% of:
 - 125 times the filing fee for candidates for the North Carolina Court of Appeals (\$164,400.00 x 80% = \$131,520.00)
 - 175 times the filing fee for candidates for Associate Justice of the North Carolina Supreme Court (\$240,100.00 x 80%= \$192,080.00)
- After the initial 24-hour filing, the non-certified candidate must comply with an expedited reporting schedule. The expedited reporting schedule for 2010 is provided at the end of this section. Reports are required to be filed by fax or electronically with the State Board of Elections Campaign Finance Office by 5:00 pm on the dates set forth in the schedule.

Reporting by Participating and Certified Candidates

- Participating and Certified candidates will comply with the standard campaign finance reporting schedule, in addition to filing the required reports for certification. (See “How do I participate in the Program?”)
- A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund.

Reporting by Entities making Independent Expenditures and Electioneering Communications

- Any entity making independent expenditures in excess of five thousand dollars (\$5,000) in support of or opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or paying for electioneering communications referring to a certified candidate, shall report the total expenditures or payments made to the Campaign Finance Office of the State Board of Elections by fax or electronically within 24 hours after the total amount of expenditures payments made for the purpose of making the independent expenditures or electioneering communications exceeds \$5,000.

- After the initial 24-hour filing, the entity making independent expenditures or electioneering communications must comply with an expedited reporting schedule. The expedited reporting schedule is provided below and reports must be filed by fax or electronically with the State Board of Elections Campaign Finance Office by 5:00pm on the dates set forth below.

2010 Expedited Reporting Schedule for Non-participating Candidates and Entities Making Independent Expenditures or Electioneering Communications

This reporting schedule is only for (a) non-participating candidates who have exceeded 80% of the trigger for matching funds, (b) entities that have made independent expenditures in support of a candidate who is opposed by a certified candidate in the Program, (c) entities that have made independent expenditures in opposition to a certified candidate, or (d) entities paying for electioneering communications referring to one of those candidates. After the initial 24 hour report is filed, non-participating candidates and these entities should file the next report on the schedule that falls after the date of the 24 hour report and all subsequent reports listed on the schedule.

➤ March 1, 2010	➤ July 26, 2010
➤ March 15, 2010	➤ August 16, 2010
➤ March 29, 2010	➤ September 13, 2010
➤ April 12, 2010	➤ October 4, 2010
➤ April 28, 2010	➤ October 18, 2010
➤ June 14, 2010	➤ October 27, 2010

Matching Funds

When any report or group of reports shows that funds in opposition to a certified candidate, or in support of an opponent to that candidate, exceed the trigger for matching funds, the Board will immediately issue to that certified candidate an additional amount equal to the reported excess within the limits.

The trigger for matching funds is based on the sum of the following:

1. The greater of either:
 - a. Campaign receipts or expenditures, whichever is greater, of a non-participating candidate opposed by a certified candidate, or
 - b. The funds distributed to certified candidates in a contested general election.
2. The aggregate total of all expenditures and payments reported from entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

*No matching funds will be provided as a result of an expenditure that supports all candidates for the same office or opposes all candidates for the same office. Additionally, matching funds will not be provided as a result of an electioneering communication that the Board ascertains is susceptible of no reasonable interpretation other than as an appeal to vote for all candidates for the same office or to vote against all candidates for the same office.

Definition of Limits

- Limit on Matching Funds Before Date of Primary---total matching funds to a certified candidate before the date of the primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought. Matching funds are available to a certified candidate with an opponent in the primary or to a certified candidate who is clearly referred to in expenditures made in

opposition to that candidate and reportable on the expedited reporting schedule listed above.

- For candidates for the North Carolina Court of Appeals the limit would be **\$157,800.00**.
 - For candidates for Associate Justice of the North Carolina Supreme Court the limit would be **\$164,640.00**.
- Limit on Matching Funds in a Contested General Election---total matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount of 125 times the filing fee for North Carolina Court of Appeals and 175 times the filing fee for North Carolina Supreme Court.
 - For candidates for the North Carolina Court of Appeals the limit would be **\$328,800.00**.
 - For candidates for Associate Justice of the North Carolina Supreme Court the limit would be **\$480,200.00**.

Matching Fund Determinations Made by the Board

When the Board receives disclosure reports that show the trigger for matching funds has been exceeded, an immediate request for an automatic transfer of funds to the recipient candidate is made. Electioneering communications do not automatically count toward the trigger for rescue funds. It will be the responsibility of the Board to make a determination on whether the electioneering communication “is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” If the Board makes that determination it shall notify:

1. Each candidate it determines is entitled to receive matching funds based on those communications,
2. The sponsor of the communications, and
3. Any candidate who is an opponent of the candidate it determines is entitled to matching funds.

The Board shall give the sponsor of the communications and any opposing candidates an opportunity to rebut the determination by the Board. Additionally, all candidates in the race will have an adequate and equal opportunity to be heard.

If the Board concludes at the end of the process that matching funds should be distributed, the request for transfer of such funds will be made immediately.

No matching funds are available for communications that support all candidates for the same office or oppose all candidates for the same office.

Judicial Voter Guide

The State Board of Elections will publish a Judicial Voter Guide that will be available no earlier than 28 days nor later than seven days before the one-stop voting period prior to the primary and general election. The Guide will include information about the functions of the appellate courts, the laws involved in electing appellate judges, the purpose and function of the North Carolina Public Campaign Fund Program and the laws regulating voter registration.

Included in the Guide will be information on each candidate for the North Carolina Court of Appeals and the North Carolina Supreme Court. This information will be submitted by the candidate on the form and in the format provided by the State Board of Elections. The candidate will be asked to provide information on the following:

- Place of residence
- Education
- Occupation
- Employer
- Date admitted to the Bar
- Legal/Judicial experience
- Candidate statement

The State Board of Elections will have the authority to reject any portion of the candidate statement that is determined to contain obscene, profane or defamatory language. If the State Board rejects a portion of the statement, the candidate will have three days to resubmit the candidate statement portion of the Voter Guide Information packet.

The entire entry for a candidate shall be limited to 250 words.

Civil Penalties

The State Board of Elections will make determinations regarding violations of the Article. Any individual, political committee or other entity that violates any provision of Article 22D will be subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. The State Board of Elections may also, “for good cause shown,” require a candidate to return to the Fund all amounts distributed to the candidate from the Fund. When making

determinations concerning violations of Article 22D, the State Board of Elections may consider as circumstances out of the candidate's control a mitigating factor when assessing a civil penalty.

A CANDIDATE’S GUIDE to the North Carolina Voter-Owned Elections Fund Program

*Public Funding for Candidates for
State Auditor,
Superintendent of Public Instruction, and
Commissioner of Insurance*

Overview of the North Carolina Voter-Owned Elections Fund Program

On August 31, 2007, Governor Easley signed legislation to establish a pilot public financing fund for candidates seeking the offices of State Auditor, Superintendent of Public Instruction, and Commissioner of Insurance. The legislative purpose of the Act “is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office.”

The 2008 election was the first time public funding was provided to candidates seeking these Council of State offices. Participation in the program is completely voluntary for candidates.

The following pages will provide specific information about the mechanics of the Voter-Owned Elections Fund Program, answers to potential questions about various aspects of the Program, and information about other campaign finance laws.

How is the Program funded?

There are five sources of revenue for the North Carolina Voter-Owned Elections Fund. In addition to distributions to qualified candidates, all expenses for implementation, including staff, administrative, and enforcement costs, are paid for by the North Carolina Voter-Owned Elections Fund. Revenue for the Fund is provided through the following means:

- The *first source* is from any voluntary donation made directly to the Voter-Owned Elections Fund.
- The *second source* is from appropriations from the General Fund.
- The *third source* is from Fund revenues that were distributed to candidates but were not spent or committed at the time a candidate is no longer considered a certified candidate for that election.
- The *fourth source* is any funds ordered to be returned to the Fund as a result of a violation by a participating or certified candidate in the Program.
- The *fifth source* is from money paid to the Fund as a result of a candidate forfeiting funds in excess of the \$20,000 cap on contributions and expenditures between August 1st of the year before the election and the date of declaring a candidate’s intent to participate in the Program.

How is the Fund and Program managed?

The State Board of Elections is responsible for administering the Fund, including the development of procedures for the proper administration of the Program. The Board will make determinations regarding whether electioneering communications will trigger matching funds and will be responsible for making determinations of violations of Article 22J of Chapter 163 of The General Statutes, the provisions creating the Program.

A Voter Guide will be developed at the direction of the Board and distributed to as many voting-age individuals in the State as practical. This Voter Guide will provide information on all candidates who have filed for State Auditor, Superintendent of Public Instruction, and Commissioner of Insurance. It will explain the functions of these offices and the laws concerning the election of the Council of State. Additionally, the purpose and function of the Fund will be included and information on voter registration provided.

The Board has delegated the daily administration of the Fund to the Campaign Finance Division of the State Board of Elections. Under the direction of the Board, the Campaign Finance Division will audit all reports of both non-participating and participating candidates to ensure compliance with the provisions of the Program. Certification requirements will be verified by Campaign Finance staff prior to the Board certifying a candidate. Reports required by the Program and the campaign finance regulations should be filed with the Campaign Finance Division. Questions concerning the administration of the Fund should be directed to the Campaign Finance Division.

Treasurer and Candidate Training Opportunities

North Carolina law provides that every treasurer of a North Carolina political committee must receive training within three months of appointment. Further, the treasurer may not sign a disclosure report until that treasurer has received the required training. Candidates who wish to sign disclosure reports must also take the required training. Treasurer training can be completed in person at the State Board of Elections, at regional locations across the State, and through an on-line interactive session.

The current training does not include specific information about the North Carolina Voter-Owned Elections Campaign Fund. However, candidates can make appointments to receive individualized guidance on the administration of the Fund and training sessions will be scheduled at

the State Board of Elections specifically to address the administration of the North Carolina Voter-Owned Elections Fund. This training is open to all candidates, their treasurers and any other interested parties that may wish to know more about the Fund and its implementation. In order to register for either of the two training sessions, please go to our website at www.sboe.state.nc.us and click on Campaign Finance. Information about the training and instructions for registration are provided.

Mechanics of the Program

Definitions of Key Terms (as taken from GS 163-278.96)

- *Board*- The State Board of Elections
- *Campaign-related expenditure*- An expenditure for the candidate's current campaign made in accordance with guidelines established by the Board.
- *Candidate*- Any individual who, with respect to a public office ..., has taken positive action for the purpose of bringing about that individual's nomination or election to public office. Examples of positive action include:
 - filing a notice of candidacy or a petition requesting to be a candidate,
 - being certified as a nominee of a political party for a vacancy,
 - otherwise qualifying as a candidate in a manner authorized by law,
 - making a public announcement of a definite intent to run for public office in a particular election,
 - or receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. The term includes a political committee authorized by the candidate for that candidate's election.
- *Certified Candidate*- A candidate running for office who chooses to receive campaign funds from the Fund who is certified under GS 163-278.98(c). (see Certification of Candidate section)
- *Contested primary and contested general election*- An election in which there are more candidates than the number to be elected. A distribution from the Fund pursuant to Article 22J is not a "contribution" and is not subject to the limitations of GS 163-278.13 or the prohibitions of GS 163-278.15 or GS 163-278.19.

- *Electioneering communication*- Any broadcast, cable, satellite communication, mass mailing or telephone bank that has all of the following characteristics:
 - Refers to a clearly identified candidate for a statewide office or the General Assembly or statewide judicial office.
 - Is aired or transmitted within one of the following time periods:
 - 60 days before absentee ballots become available for a general election and ending on the date of the general election;
 - 30 days before absentee ballots become available for a primary and ending on primary election day.
 - Is targeted to the relevant electorate.
- *Expenditure*- Any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term “expenditure” also includes any payment or other transfer made by a candidate, political committee, or referendum committee.
- *Fund*- The North Carolina Voter-Owned Elections Fund as established in GS 163-278.97.
- *Independent Expenditure*- An expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is made without consultation or coordination with a candidate or agent of a candidate whose nomination or election the expenditure supports or whose opponent’s nomination or election the expenditure opposes. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure.
- *Maximum qualifying contributions*- If the candidate has an uncontested primary, an amount equal to 100 times the filing fee for the office sought. If the candidate has a contested primary, 200 times the filing fee for the office sought.
- *Minimum qualifying contributions*- An amount of qualifying contributions equal to 25 times the filing fee for candidacy for the office. These contributions must be from at least 750 North Carolina registered voters in amounts of \$10 to \$200.

- *Nonparticipating candidate*- A candidate running for office who is not seeking to be certified. (see Certification of Candidate section)
- *Office*- The Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance.
- *Participating candidate*- A candidate for office who has filed a declaration of intent to participate under GS 163-278.98(a).
- *Political committee*- The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:
 - a. Is controlled by a candidate;
 - b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
 - c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
 - d. Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee. If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

- *Qualifying contribution*- A contribution of not less than ten dollars (\$10.00) and not more than two hundred dollars (\$200.00) in the form of a check or money order to the candidate or the candidate's committee that meets both of the following conditions:
 - a. Made by a registered voter in this State
 - b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.
- *Qualifying period*- The period beginning September 1 in the year before the election and ending the day of the primary of the election year.
- *Trigger of matching funds*- The dollar amount at which matching funds are released for certified candidates. In the case of a contested primary, the trigger equals the maximum qualifying contributions for

participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under GS 163-278.99(b)(2). (see *How do I receive funds from the Program?* section)

Who may participate in the Program?

- A candidate for State Auditor, Superintendent of Public Instruction, and Commissioner of Insurance who desires to participate in the North Carolina Voter-Owned Elections Fund Program.
- The candidate must be eligible to receive funds from this Program.
- Upon making the determination to participate in the Program, a candidate must be able to certify that, since August 1st of the year before the election, he or she has received no more than twenty thousand dollars (\$20,000) from sources and in amounts permitted by law and has not expended more than twenty thousand dollars (\$20,000) for campaign-related expenditures. For example, for elections taking place in 2012, August 1, 2011 is the relevant date. If either of these limits has been exceeded, a candidate is ineligible to receive funds from the Program, unless the candidate pays to the Board an amount equal to the contributions accepted by the candidate in excess of that limit and the amount already expended for campaign-related expenditures has not exceeded the limit.

How do I participate in the Program?

- If the above criteria have been met, a candidate must first file a **Declaration of Intent** during the qualifying period and before collecting any qualifying contributions. The qualifying period begins on September 1 of the year before the election. For an election taking place in 2012, the qualifying period begins on September 1, 2011. The qualifying period ends on the day of the primary of the election year. The **Declaration of Intent** may be filed at any time during this qualifying period, but absolutely no qualifying contributions may be received prior to the filing of the **Declaration of Intent**.

Contents of the Declaration of Intent

The candidate will swear or affirm that:

- Only one political committee, identified with a treasurer, will handle all contributions, campaign-related expenditures, and obligations for the participating candidate;
- No qualifying contributions have been collected prior to the filing of the statement;
- No contributions have been collected in excess of \$20,000 and no campaign-related expenditures have been made in excess of \$20,000 since August 1, 2011;
- All contributions received since August 1, 2011 were from permitted sources and in permitted amounts;
- The candidate will comply with the contribution and expenditure limits and other requirements set forth in Article 22J or adopted by the Board. Failure to comply would be a violation of Article 22J.

- After the **Declaration of Intent** has been filed, the candidate is now defined as a “participating candidate.” The participating candidate must obtain qualifying contributions during the qualifying period in order to become a “certified candidate.”

Requirements for Qualifying Contributions

- Must obtain separate contributions from at least 750 registered voters of North Carolina. Each contributor must provide his or her full name, mailing address, phone number, and county of residence.
- Each qualifying contribution may be no less than ten dollars (\$10) and no more than two hundred dollars (\$200).
- Each qualifying contribution must be in the form of a check or money order. No cash may be accepted.
- All qualifying contributions must be made during the qualifying period and must be obtained with the approval of the candidate or candidate's committee.
- The aggregate sum of the qualifying contributions may be no less than the minimum qualifying contribution sum, which is 25 times the filing fee for the office.
 - The minimum qualifying contribution amount for each of the three Council of State offices in 2012 has not yet been determined.
- The sum of the qualifying contributions may be no more than 100 times the filing fee for the office if the participating candidate is in an uncontested primary and 200 times the filing fee if the participating candidate is in a contested primary.
 - The maximum qualifying contribution amount for participating candidates in 2012 has not yet been determined.
- No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.
- All qualifying contributions will be reported on a Qualifying Report filed electronically with the State Board of Elections.
- Participating candidates may receive contributions less than ten dollars (\$10). These contributions are not qualifying contributions and are not considered in meeting the minimum contribution sum. However, the total contributions of amounts under ten dollars (\$10) and all qualifying contributions may not exceed the maximum qualifying sum.

- From the filing of the **Declaration of Intent** through the end of the qualifying period, a candidate shall expend no more than an amount equal to the maximum qualifying contributions for that candidate, not including possible matching funds or any remaining “seed” money raised during the period from August 1st until the filing of the **Declaration of Intent**.

- During the qualifying period, the candidate may contribute up to one thousand dollars (\$1,000) of that candidate's own money to the campaign and may accept in contributions one thousand dollars (\$1,000) from each member of that candidate's family including the candidate's spouse, parent, child, brother and sister. Debt incurred by a candidate or payments for campaign expenses by a candidate count toward the \$1,000 limit.

*Any contribution received by a participating or certified candidate that does not meet the criteria outlined in this process must be returned to the donor as soon as practicable. This has been defined as within five days of receipt of the contribution. Contributions intentionally made, solicited, or accepted in violation of Article 22J are subject to civil penalties.

- After the qualifying contributions have been received and recorded, a Qualifying Report must be submitted electronically to the Campaign Finance Office of the State Board of Elections for certification evaluation. This report will contain the required information for all qualifying contributors. Required information includes the contributor's name, address, phone number, county of residence, birth date or voter registration number, the amount of the contribution and the method of payment (check or money order).
- Upon receipt of the Qualifying Report, the certification evaluation will begin. The Board shall certify candidates complying with the requirements no later than five business days after receipt of a satisfactory record of demonstrated support. The following are the requirements for certification:

Certification Requirements

- Signed and filed **Declaration of Intent**.
- Submitted Qualifying Report listing the appropriate number of qualifying contributions in the appropriate amounts from registered voters of North Carolina. This information will be verified by State Board staff.
- Filed a valid Notice of Candidacy for the office sought during the filing period established by the North Carolina General Statutes.
- Complied with all other campaign finance laws.

- After the qualifying period and through the date of the general election, the candidate shall cease campaign-related fund-raising activities and shall expend only the funds the candidate receives from the Fund plus any funds remaining from the qualifying period and any matching funds.

Other Restrictions on Expenditures by Participating and Certified Candidates

Article 22A of Chapter 163 of the North Carolina General Statutes contains the regulations concerning contributions and expenditures in political campaigns. Specifically, N.C. Gen. Stat. 163-278.16B provides the permitted purposes for which a candidate or candidate campaign committee may spend their funds. It was not until October 1, 2006, that North Carolina placed restrictions on how candidates and their campaign committees spent their funds. Candidates participating in public funding must limit their expenditures for the purposes provided in N.C. Gen. Stat. 163-278.16B plus any additional restrictions made by the Board.

The State Board has provided guidelines for determining whether an expenditure is campaign related, as required by statute. If a participating or certified candidate is unsure if an intended expenditure falls within these guidelines, a request for an opinion should be made to the State Board of Elections Campaign Finance Division.

The designated treasurer for the participating or certified candidate should maintain receipts documenting every disbursement from the campaign account. These receipts may be needed if a complaint is filed or the State Board of Elections has any questions about the expenditures of a committee.

Nonparticipating candidates are not limited to the campaign-related expenditure guidelines below. However, these candidates must comply with the expenditure guidelines set forth in N.C. Gen. Stat. 163-

278.16B and must continue to fully disclose all expenditures with the full name and address of the payee, date of disbursement, amount of disbursement and specific purpose of the disbursement. Participating and certified candidates will also be required to provide this information on all campaign finance reports filed.

As stated above, if a candidate or committee has a question as to whether it would be permissible to make a specific expenditure, a written request for guidance is recommended. Please contact the Campaign Finance Office of the State Board of Elections with any questions. The Campaign-Related Expenditure Guidelines chart addresses specific expenditures and their permissibility. This chart is not a conclusive list of allowable expenditures, but does provide guidelines to assist with compliance.

Campaign-Related Expenditure Guidelines

<i>Allowed</i>	<i>Prohibited</i>
Advertisement expenditures including all “print media”	Expenditures to any political party or political committee, except as provided by these guidelines
Campaign headquarters expenses including lease and utilities	Independent Expenditures
Office supplies	Loans not associated with the current candidacy
Campaign staff expenses including salaries and food for staff and/or volunteers	Any gift to another that is not given for a campaign-related purpose
Travel expenses for candidate and staff including mileage, lodging and reimbursement for campaign events and appearances	A capital asset that is not used to promote the current candidacy
Consulting services, accounting services, clerical services, polling and other campaign advisory services	Any costs incurred as a result of civil penalties assessed against the candidate or committee
Candidate may jointly pay for media expenses as long as each candidate pays a proportional amount so that no candidate receives an in-kind contribution.	
Purchase of tickets to attend events for the purpose of campaigning, the cost of which are reasonably related to the benefits received. <i>(An expense of \$200 or less is presumed reasonable.)</i>	
Any expenses incurred by the candidate for fundraising activities	

Limitations on Fundraising for Candidates NOT participating in the Program

A candidate for State Auditor, Superintendent of Public Instruction, or Commissioner of Insurance who is not a certified candidate in the Program but is opposed by a certified candidate in the Program may not accept a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election if

that contribution would trigger matching funds for the certified candidate. A contribution from the candidate or the spouse of the candidate or a loan secured entirely by the candidate or spouse of the candidate is not included in the 21-day prohibition. The 21-day provision only applies to a candidate opposed in a general election by a certified candidate who has not received the maximum amount of matching funds available. If a nonparticipating candidate violates this provision, the candidate will have three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this provision.

How do I receive funds from the Program?

The State Board of Elections will distribute revenue from the Fund within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election. The amount of the Fund distribution is based on the average amount of campaign-related expenditures made by all candidates that won the immediately preceding three general elections for that office, but not less than \$300,000.00.

The manner of Fund distribution will be as follows:

1. Within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary, one-third of the revenue (as provided above) for that certified candidate will be directly deposited into that candidate's campaign account.
2. The remainder of the amount will be directly deposited on August 1st before the general election.

*If the revenue in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionately, according to each candidate's eligible funding. Additionally, the candidate will be permitted to raise funds in the same manner as a nonparticipating candidate up to the total amount he or she would have received if adequate funding had been available.

What are my Campaign Finance Reporting requirements?

Non-certified Candidate Reporting Requirements

In addition to the standard campaign finance reporting schedule, a non-certified candidate who is opposed by a certified candidate must file a campaign finance report by fax or electronically within 24 hours after the

total amount of contributions received exceeds 80% of the trigger for matching funds.

- Primary trigger: Maximum qualifying contributions for the certified candidate.
- General Election trigger: Base level of funding available to certified candidates who will appear on the general election ballot.
- After the initial 24-hour filing, the non-certified candidate must comply with an expedited reporting schedule. The expedited reporting schedule for 2012 has not yet been determined. Reports are required to be filed by fax or electronically with the State Board of Elections Campaign Finance Office by 5:00 pm on the dates set forth in the schedule.

Reporting by Participating and Certified Candidates

Participating and Certified candidates will comply with the standard campaign finance reporting schedule, in addition to filing the required reports for certification. *(See “How do I participate in the Program?”)*

Reporting by Entities making Independent Expenditures and Electioneering Communications

- Any entity making independent expenditures in excess of five thousand dollars (\$5,000) in support of or opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or an entity paying for electioneering communications referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures to the Campaign Finance Office of the State Board of Elections by fax or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures or electioneering communications, exceeds \$5,000.
- After the initial 24-hour filing, the entity making independent expenditures or electioneering communications must comply with an expedited reporting schedule. The expedited reporting schedule for 2012 has not yet been determined. Reports are required to be filed by fax or electronically with the State Board of Elections Campaign Finance Office by 5:00 pm on the dates set forth in the schedule.

Matching Funds

When any report or group of reports show that funds in opposition to a certified candidate exceed the trigger for matching funds, the Board will immediately issue to that certified candidate an additional amount equal to the reported excess within the limits.

The trigger for matching funds is based on the sum of the following:

- The greater of either:
 - a. Campaign receipts or expenditures of a non-participating candidate opposed by a certified candidate, or
 - b. The funds distributed to a certified candidate in a contested general election.
- The aggregate total of all expenditures and payments reported from entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

Definition of Limits

- Limit on Matching Funds in a Contested Primary---total matching funds to a certified candidate shall be limited to an amount equal to the maximum qualifying contributions for the office sought.
- Limit on Matching Funds in a Contested General Election---total matching funds to a certified candidate shall be limited to an amount equal to two times the amount of the Fund distribution for certified candidates appearing on the general election ballot.

Matching Fund Determinations Made by the Board

When the Board receives disclosure reports that show the trigger for matching funds has been exceeded, an immediate request for an automatic transfer of funds to the recipient candidate is made. Electioneering communications do not automatically count toward the trigger for rescue funds. It will be the responsibility of the Board to make a determination as to whether the electioneering communication is “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” If the Board makes that determination it shall notify:

1. Each candidate it determines is entitled to receive matching funds based on those communications,
2. The sponsor of the communications, and
3. Any candidate who is an opponent of the candidate it determines is entitled to matching funds.

The Board shall give the sponsor of the communications and any opposing candidates an opportunity to rebut the determination by the Board. Additionally, all candidates in the race will have an adequate and equal opportunity to be heard.

If the Board concludes at the end of the process that matching funds should be distributed, the request for transfer of such funds will be made immediately after the decision.

Voter Guide

The State Board of Elections will publish a Voter Guide that will be available no earlier than 28 days or later than seven days before the one-stop voting period prior to the primary and general election. The Guide will include information about the functions of the State Auditor, Superintendent of Public Instruction and Commissioner of Insurance, the laws involved in electing the Council of State, the purpose and function of the North Carolina Voter-Owned Elections Program and the laws regulating voter registration.

Included in the Guide will be information on each candidate for State Auditor, Superintendent of Public Instruction and Commissioner of Insurance. This information will be submitted by the candidate on the form and in the format provided by the State Board of Elections. The candidate will be asked to provide information on the following:

- Place of residence
- Education
- Occupation
- Employer
- Previous elective offices held
- Endorsements, limited to 50 words. The candidate must have written confirmation from the endorsing person or organization of the endorsement. This confirmation must be submitted to the Board.
- Candidate statement, limited to 150 words

The State Board of Elections will have the authority to reject any portion of the candidate statement that is determined to contain obscene, profane or defamatory language. If the State Board rejects a portion of the statement, the candidate will have three days to resubmit the candidate statement portion of the Voter Guide Information packet.

The Voter Guide may be published in conjunction with the Judicial Voter Guide provided by the North Carolina Public Campaign Fund.

Civil Penalties

The State Board of Elections will make determinations regarding violations of the Article. Any individual, political committee or other entity that violates any provision of Article 22J will be subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. The State Board of Elections may also, “for good cause shown,” require a candidate to return to the Fund all amounts distributed to the candidate from the Fund. When making determinations concerning violations of Article 22J, the State Board of Elections may consider circumstances out of the candidate’s control as a mitigating factor when assessing a civil penalty.

Article 22. Corrupt Practices and Other Offenses against the Elective Franchise.

§§ 163-259 through 163-268. Repealed by Session Laws 1975, c. 565, s. 8.

§§ 163-269 through 163-270. Repealed by Session Laws 1999-31, s. 5(b).

§ 163-271. Intimidation of voters by officers made misdemeanor.

It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. A violation of this section is a Class 2 misdemeanor. (1933, c. 165, s. 25; 1967, c. 775, s. 1; 1987, c. 565, s. 11; 1993, c. 539, s. 1109; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 163-272. Repealed by Session Laws 1971, c. 872, s. 3.

§ 163-272.1. Penalties for violation of this Chapter.

Whenever in this Chapter it is provided that a crime is a misdemeanor, the punishment shall be for a Class 2 misdemeanor. (1987, c. 565, s. 1; 1993, c. 539, s. 1110; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 163-273. Offenses of voters; interference with voters; penalty.

(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

- (1) For a voter, except as otherwise provided in this Chapter, to allow his ballot to be seen by any person.
- (2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.
- (3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.
- (4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.
- (5) For any voter to remain longer than the specified time allowed by this Chapter in a voting booth, after being notified that his time has expired.

(6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.

(7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots.

(b) Election officers shall cause any person committing any of the offenses set forth in subsection (a) of this section to be arrested and shall cause charges to be preferred against the person so offending in a court of competent jurisdiction. (1929, c. 164, s. 29; 1967, c. 775, s. 1; 1987, c. 565, s. 12; 1993, c. 539, s. 1111; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 163-274. Certain acts declared misdemeanors.

(a) Class 2 Misdemeanors. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

(1) For any person to fail, as an officer or as a judge or chief judge of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;

(1a) For any member, director, or employee of a board of elections to alter a voter registration application or other voter registration record without either the written authorization of the applicant or voter or the written authorization of the State Board of Elections;

(2) For any person to continue or attempt to act as a judge or chief judge of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;

(3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections;

(4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of his duties as imposed by law;

(5) For any person to bet or wager any money or other thing of value on any election;

(5a) Repealed by Session Laws 1999-455, s. 21, applicable to elections held on or after January 1, 2000.

(6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which he may have failed to cast;

(7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge;

(8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;

(9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;

(10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;

(11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;

(12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he desires; or

(13) Except as authorized by G.S. 163-82.15, for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-82.15.

(b) Class 1 Misdemeanor. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful shall be guilty of a Class 1 misdemeanor. It shall be unlawful for any person who has access to an official voted ballot or record to knowingly disclose in violation of G.S. 163-165.1(e) how an individual has voted that ballot. (1931, c. 348, s. 9; 1951, c. 983, s. 1; 1967, c. 775, s. 1; 1979, c. 135, s. 3; 1987, c. 565, s. 13; c. 583, s. 9; 1993, c. 539, s. 1112; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 762, s. 58(a)-(c); 1999-424, s. 7(h); 1999-426, s. 2(a); 1999-455, s. 21; 2007-391, ss. 9(b), 16(b).)

§ 163-275. Certain acts declared felonies.

Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

(1) For any person fraudulently to cause his name to be placed upon the registration books of more than one election precinct or fraudulently to cause or procure his name or that of any other person to be placed upon the registration books in any precinct when such registration in that precinct does not qualify such person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of such other voter;

(2) For any person to give or promise or request or accept at any time, before or after any such primary or election, any money, property or other thing of value whatsoever in return for the vote of any elector;

(3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act or knowingly and fraudulently omit to do any act or make any report legally required of such person;

(4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election;

(5) For any person convicted of a crime which excludes him from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law;

(6) For any person to take corruptly the oath prescribed for voters;

(7) For any person with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to do so, in the same primary or election, or to vote illegally at any primary or election;

(8) For any chief judge or any clerk or copyist to make any entry or copy with intent to commit a fraud;

(9) For any election official or other officer or person to make, certify, deliver or transmit any false returns of any primary or election, or to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud;

(10) For any person to assault any chief judge, judge of election or other election officer while in the discharge of his duty in the registration of voters or in conducting any primary or election;

(11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any chief judge, judge of election or other election officer in the discharge of his duties in the registration of voters or in conducting any primary or election;

(12) For any chief judge, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for his services;

(13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting;

(14) For any officer to register voters and any other individual to knowingly and willfully receive, complete, or sign an application to register from any voter contrary to the provisions of G.S. 163-82.4; or

(15) Reserved for future codification purposes.

(16) For any person falsely to make the certificate provided by G.S. 163-229(b)(2) or G.S. 163-250(a).

(17) For any person, directly or indirectly, to misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourage potential voters from exercising their lawful right to vote.

(18) For any person, knowing that a person is not a citizen of the United States, to instruct or coerce that person to register to vote or to vote. (1901, c. 89, s. 13; Rev., s. 3401; 1913, c. 164, s. 2; C.S., s. 4186; 1931, c. 348, s. 10; 1943, c. 543; 1965, c. 899; 1967, c. 775, s. 1; 1979, c. 539, s. 4; 1979, 2nd Sess., c. 1316, ss. 27, 28; 1981, cc. 63, 179; 1985, c. 562, s. 5; 1987, c. 565, s. 14; c. 583, s. 7; 1989, c. 770, s. 38; 1991, c. 727, s. 1; 1993, c. 553, s. 68; 1993 (Reg. Sess., 1994), c. 762, s. 58(d)-(g); 1999-424, s. 7(i); 2007-391, s. 17(a).)

§ 163-276. Convicted officials; removal from office.

Any public official who shall be convicted of violating any provision of Article 14A or 22 of this Chapter, in addition to the punishment provided by law, shall be removed from office by the judge presiding, and, if the conviction is for a felony, shall be disqualified from voting until his citizenship is restored as provided by law. (1949, c. 504; 1967, c. 775, s. 1; 1985, c. 563, s. 11.3; 2002-159, s. 21(c).)

§ 163-277. Compelling self-incriminating testimony; person so testifying excused from prosecution.

No person shall be excused from attending or testifying or producing any books, papers or other documents before any court or magistrate upon any investigation, proceeding or trial for the violation of any of the provisions of this Article, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him, but such person may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this Article; but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding, but such person so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof, and shall be pardoned for any violation of law about which such person shall be so required to testify. (1931, c. 348, s. 11; 1967, c. 775, s. 1.)

§ 163-278. Duty of investigating and prosecuting violations of this Article.

It shall be the duty of the State Board of Elections and the district attorneys to investigate any violations of this Article, and the Board and district attorneys are authorized and empowered to subpoena and compel the attendance of any person before them for the

purpose of making such investigation. The State Board of Elections and the district attorneys are authorized to call upon the Attorney General to furnish assistance by the State Bureau of Investigation in making the investigations of such violations. The State Board of Elections shall furnish the district attorney a copy of its investigation. The district attorney shall initiate prosecution and prosecute any violations of this Article. The provisions of G.S. 163-278.28 shall be applicable to violations of this Article. (1931, c. 348, s. 12; 1967, c. 775, s. 1; 1975, c. 565, s. 7.)

§§ 116-278.1 through 116-278.4. Reserved for future codification purposes.

Article 22A. Regulating Contributions and Expenditures in Political Campaigns.

Part 1. In General.

§ 163-278.5. Scope of Article; severability.

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, 22D, 22E, 22F, 22G, 22H, 22J, and 22M of the General Statutes to the same extent that it applies to this Article. (1999-31, s. 6(a); 2000-140, s. 82; 2005-430, s. 7; 2007-349, s. 5.)

§ 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
- e. Receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of "candidate" and "candidate campaign committee" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

(5) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public

opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of "print media," "radio," and "television" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

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

- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in G.S. 163-278.80(2) and (3) and G.S. 163-278.90(2) and (3); and
- b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, or an agent or official of any such candidate, party, or committee that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party.

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

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

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

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

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

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

(9) The terms "expend" or "expenditure" mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or

oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term "expenditure" also includes any payment or other transfer made by a candidate, political committee, or referendum committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) The term "treasurer" means an individual appointed by a candidate, political committee, or referendum committee as provided in G.S. 163-278.7 or G.S. 163-278.40A. (1973, c. 1272, s. 1; 1975, c. 798, ss. 5, 6; 1979, c. 500, s. 1; c. 1073, ss. 1-3, 19, 20; 1981, c. 837, s. 1; 1983, c. 331, s. 6; 1985, c. 352, ss. 1-3; 1997-515, ss. 4(a)-(c), 7(b)-(d); 1999-31, ss. 1(a), (b), 2(a)-(c), 3, 4(a); 1999-424, s. 6(a), (b); 2002-159, s. 55(n); 2003-278, s. 5; 2004-125, s. 3; 2004-127, s. 15; 2004-203, s. 12(b); 2005-430, s. 10; 2006-264, s. 23; 2007-391, s. 3; 2008-150, s. 6(a); 2008-187, s. 33(a).)

§ 163-278.7. Appointment of political treasurers.

(a) Each candidate, political committee, and referendum committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board. Only an individual who resides in North Carolina shall be appointed as a treasurer. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer, and, upon failure to file report designating a treasurer, the candidate shall be concluded to have appointed himself as treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon the appointed treasurer and subject to the penalties and sanctions hereinafter provided.

(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.9(a)(1) a statement of organization that includes:

(1) The Name, Address and Purpose of the Candidate, Political Committee, or Referendum Committee. – When the political committee or referendum committee is created pursuant to G.S. 163-278.19(b), the name shall be or include the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the committee. When the political committee or referendum committee is not created pursuant to G.S. 163-278.19(b), the name shall be or include the economic interest, if identifiable, principally represented by the committee's organizers or intended to be advanced by use of the committee's receipts.

(2) The names, addresses, and relationships of affiliated or connected candidates, political committees, referendum committees, political parties, or similar organizations;

(3) The territorial area, scope, or jurisdiction of the candidate, political committee, or referendum committee;

(4) The name, address, and position with the candidate or political committee of the custodian of books and accounts;

(5) The name and party affiliation of the candidate(s) whom the committee is supporting or opposing, and the office(s) involved;

(5a) The name of the referendum(s) which the referendum committee is supporting or opposing, and whether the committee is supporting or opposing the referendum;

(6) The name of the political committee or political party being supported or opposed if the committee is supporting the ticket of a particular political or political party;

(7) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used, provided that the Board shall keep any account number included in any report filed after March 1, 2003, and required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or unless confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

(8) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the candidate, political committee, or referendum committee and shall be fully responsible for any act or acts committed by the assistant treasurer. The treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer; and

(9) Any other information which might be requested by the Board that deals with the campaign organization of the candidate or referendum committee.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Board within a 10-day period following the change.

(d) A candidate, political committee or referendum committee may remove his or its treasurer. In case of the death, resignation or removal of his or its treasurer before compliance with all obligations of a treasurer under this Article, such candidate, political committee or referendum committee shall appoint a successor within 10 days of the vacancy of such office, and certify the name and address of the successor in the manner provided in the case of an original appointment.

(e) Every treasurer of a referendum committee shall receive, prior to every election in which the referendum committee is involved, training from the State Board of Elections as to the duties of the office, including the requirements of G.S. 163-278.13(e1), provided that the treasurer may designate an employee or volunteer of the committee to receive the training.

(f) Every treasurer of a political committee shall participate in training as to the duties of the office within three months of appointment and at least once every four years thereafter. The State Board of Elections shall provide the training as to the duties of the office in person, through regional seminars, and through interactive electronic means. The treasurer may designate an assistant treasurer to participate in the training, if one is named under subdivision (b)(8) of this section. The treasurer may choose to participate in training prior to each election in which the political committee is involved. All such training shall be free of charge to the treasurer and assistant treasurer. (1973, c. 1272, s. 1; 1979, c. 500, s. 2; c. 1073, ss. 4, 5, 16, 18, 20; 1987, c. 113, s. 1; 1995, c. 315, s. 1; 2002-159, s. 57.1(a); 2004-203, s. 59(a); 2005-430, s. 10.1; 2006-195, s. 7.)

§ 163-278.7A. Gifts from federal political committees.

It shall be permissible for a federal political committee, as defined by the Federal Election Campaign Act and regulations adopted pursuant thereto, to make contributions to a North Carolina candidate or political committee registered under this Article with the State Board of Elections or a county board of elections, provided that the contributing committee does all the following:

(1) Is registered with the State Board of Elections consistent with the provisions of this Article.

(2) Complies with reporting requirements specified by the State Board of Elections. Those requirements shall not be more stringent than those required of North Carolina political committees registered under this Article, unless the federal political committee makes any contribution to a North Carolina candidate or political committee in any election

in excess of four thousand dollars (\$4,000) for that election. "Election" shall be as defined in G.S. 163-278.13(d).

(3) Makes its contributions within the limits specified in this Article.

(4) Appoints an assistant or deputy treasurer who is a resident of North Carolina and stipulates to the State Board of Elections that the designated in-State resident assistant or deputy treasurer shall be authorized to produce whatever records reflecting political activity in North Carolina the State Board of Elections deems necessary. (1995 (Reg. Sess., 1996), c. 593, s. 1; 2003-274, s. 1.)

§ 163-278.8. Detailed accounts to be kept by political treasurers.

(a) The treasurer of each candidate, political committee, and referendum committee shall keep detailed accounts, current within not more than seven days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate, political committee, or referendum committee. The accounts shall include the information required by the State Board of Elections on its forms.

(b) Accounts kept by the treasurer of a candidate, political committee, or referendum committee or the accounts of a treasurer or political committee at any bank or other depository listed under G.S. 163-278.7(b)(7), may be inspected, before or after the election to which the accounts refer, by a member, designee, agent, attorney or employee of the Board who is making an investigation pursuant to G.S. 163-278.22.

(c) Repealed by Session Laws 2004-125, s. 5(a), effective July 20, 2004, and applicable to contributions made on or after January 1, 2003.

(d) Repealed by Session Laws 2006-195, s. 4, effective January 1, 2007, and applicable to all contributions made and accepted on or after that date.

(e) All expenditures for media expenses shall be made by a verifiable form of payment. The State Board of Elections shall prescribe methods to ensure an audit trail for every expenditure so that the identity of each payee can be determined. All media expenditures in any amount shall be accounted for and reported individually and separately with specific descriptions to provide a reasonable understanding of the expenditure.

(f) All expenditures for nonmedia expenses (except postage) of more than fifty dollars (\$50.00) shall be made by a verifiable form of payment. The State Board of Elections shall prescribe methods to ensure an audit trail for every expenditure so that the identity of each payee can be determined. All expenditures for nonmedia expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and reported individually and separately with a specific description to provide a reasonable understanding of the expenditure, but expenditures of fifty dollars (\$50.00) or less may be accounted for and reported in an aggregated amount, but in that case the treasurer shall account for and report that the treasurer made expenditures of fifty dollars (\$50.00) or less each, the amounts, dates, and the purposes for which made. In the case of a nonmedia expenditure required to be accounted for individually and separately with a specific description to provide a reasonable understanding of the expenditure by this subsection, if the expenditure was to an individual, the report shall list the name and address of the individual.

(g) All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

(h) The treasurer shall maintain all moneys of the political committee in a bank account or bank accounts used exclusively by the political committee and shall not commingle those funds with any other moneys. (1973, c. 1272, s. 1; 1977, c. 635, s. 1; 1979, c. 1073, ss. 16, 20; 1981, c. 814, s. 1; 1985, c. 353, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 744, s. 1; 1999-424, s. 7(m); 2004-125, s. 5(a); 2005-430, ss. 2, 3; 2006-161, ss. 2, 3; 2006-195, s. 4; 2008-150, s. 10(a).)

**§ 163-278.8A. (For effective date and applicability, see Editor's note)
Campaign sales by political party executive committees.**

(a) Exempt Purchase Price Not Treated as "Contribution." – Notwithstanding the provisions of G.S. 163-278.6(6), the purchase price of goods or services sold by a political party executive committee as provided in subsection (b) of this section shall not be treated as a "contribution" for purposes of account-keeping under G.S. 163-278.8, for purposes of the reporting of contributions under G.S. 163-278.11, or for the purpose of the limit on contributions under G.S. 163-278.13. The treasurer is not required to obtain, maintain, or report the name or other identifying information of the purchaser of the goods or services, as long as the requirements of subsection (b) of this section are satisfied. However, the proceeds from the sales of those goods and services shall be treated as contributions for other purposes, and expenditures of those proceeds shall be reported as expenditures under this Article.

(b) Exempt Purchase Price. – A purchase price for goods or services sold by a political party executive committee qualifies for the exemption provided in subsection (a) of this section as long as the sale of the goods or services adheres to a plan that the treasurer has submitted to and that has been approved in writing by the Executive Director of the State Board of Elections. The Executive Director shall approve the treasurer's plan upon and only upon finding that all the following requirements are satisfied:

- (1) That the price to be charged for the goods or services is reasonably close to the market price for the goods or services.
- (2) That the total amount to be raised from sales under all plans by the committee does not exceed ten thousand dollars (\$10,000) per election cycle.
- (3) That no purchaser makes total purchases under the plan that exceed fifty dollars (\$50.00).
- (4) That the treasurer include in the report under G.S. 163-278.11, covering the relevant time period, all of the following:
 - a. A description of the plan.
 - b. The amount raised from sales under the plan.
 - c. The number of purchases made.
- (5) That the treasurer shall include in the appropriate report under G.S. 163-278.11 any in-kind contribution made to the political party executive committee in providing the goods or services sold under the plan and that no in-kind contribution accepted as part of the plan violates any provision of this Article.

The Executive Director may require a format for submission of a plan, but that format shall not place undue paperwork burdens upon the treasurer. As used in this subdivision, the term "election cycle" has the same meaning as in G.S. 163-278.6(7c). (2008-150, s. 8(a).)

§ 163-278.9. Statements filed with Board.

(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file with the Board under certification of the treasurer as true and correct to the best of the knowledge of that officer the following reports:

- (1) Organizational Report. – The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law.
- (2) Repealed by Session Laws 1999-31, s. 7(a), effective January 1, 2000.
- (3) Postprimary Report(s). – Repealed by Session Laws 1997-515, s. 1.
- (4) Preelection Report. – Repealed by Session Laws 1997-515, s. 1.
- (4a) 48-Hour Report. – A political committee or political party that receives a contribution or transfer of funds shall disclose within 48 hours of receipt a

contribution or transfer of one thousand dollars (\$1,000) or more received before an election but after the period covered by the last report due before that election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of the funds. The State Board of Elections shall specify the form and manner of making the report, including the reporting of in-kind contributions.

(5) Repealed by Session Laws 1985, c. 164, s. 1.

(5a) Quarterly Reports. – During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting or opposing a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that:

a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and

b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.

(6) Semiannual Reports. – If contributions are received or expenditures made for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last Friday in July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

(c) Repealed by Session Laws 1985, c. 164, s. 6.1.

(d) Candidates and committees for municipal offices are not subject to subsections (a), (b) and (c) of this section, unless they make contributions or expenditures concerning elections covered by this Part. Reports for those candidates and committees are covered by Part 2 of this Article.

(e) Notwithstanding subsections (a) through (c) of this section, any political party (including a State, district, county, or precinct committee thereof) which is required to file reports under those subsections and under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434), shall instead of filing the reports required by those subsections, file with the State Board of Elections:

(1) The organizational report required by subsection (a)(1) of this section, and

(2) A copy of each report required to be filed under 2 U.S.C. 434, such copy to be filed on the same day as the federal report is required to be filed.

(f) Any report filed under subsection (e) of this section may include matter required by the federal law but not required by this Article.

(g) Any report filed under subsection (e) of this section must contain all the information required by G.S. 163-278.11, notwithstanding that the federal law may set a higher reporting threshold.

(h) Any report filed under subsection (e) of this section may reflect the cumulative totals required by G.S. 163-278.11 in an attachment, if the federal law does not permit such information in the body of the report.

(i) Any report or attachment filed under subsection (e) of this section must be certified.

(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office. The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer.

(k) All reports under this section must be filed by a treasurer or assistant treasurer who has completed all training as to the duties of the office required by G.S. 163-278.7(f). (1973, c. 1272, s. 1; 1975, c. 565, s. 1; 1979, c. 500, ss. 3, 16; c. 730; 1981, c. 837, s. 2; 1985, c. 164, ss. 1, 6-6.2; 1987 (Reg. Sess., 1988), c. 1028, s. 6; 1991 (Reg. Sess., 1992), c. 1032, s. 10A; 1997-515, ss. 1(a), 4(d1), 5(a), 12(a); 1999-31, s. 7(a), (b); 2001-235, s. 2; 2001-419, s. 7; 2001-487, s. 97(b); 2002-159, s. 21(d); 2006-195, ss. 5.1, 8; 2008-150, ss. 9(c), (d), 11(a).)

§ 163-278.9A. Statements filed by referendum committees.

(a) The treasurer of each referendum committee shall file under verification with the Board the following reports:

(1) Organizational Report. – The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures shall be filed with the Board no later than the tenth day following the organization of the referendum committee.

(2) Pre-Referendum Report. – The treasurer shall file a report with the Board no later than the tenth day preceding the referendum.

(2a) 48-Hour Report. – A referendum committee that receives a contribution or transfer of funds shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before a referendum but after the period covered by the last report due before that referendum. The disclosure shall be by report to the State Board of Elections identifying the source and amount of such funds. The State Board of Elections shall specify the form and manner of making the report, including the reporting of in-kind contributions.

(3) Final Report. – The treasurer shall file a final report no later than the tenth day after the referendum. If the final report fails to disclose a final accounting of all contributions and expenditures, a supplemental final report shall be filed no later than January 7, after the referendum, and shall be current through December 31 after the referendum.

(4) Annual Reports. – If contributions are received or expenditures made during a calendar year for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by January 7 of the following year.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported. (1979, c. 1073, s. 6; 1997-515, s. 12(b); 2002-159, s. 21(e); 2008-150, s. 11(b).)

§ 163-278.10. Procedure for inactive candidate or committee.

If no contribution is received or expenditure made by or on behalf of a candidate, political committee, or referendum committee during a period described in G.S. 163-278.9, the treasurer shall file with the Board, at the time required by G.S. 163-278.9, a statement to that effect and it shall not be required that any inactive candidate or committee so filing a report of inactivity file any additional reports required by G.S. 163-278.9 so long as the candidate or committee remains inactive. (1973, c. 1272, s. 1; 1979, c. 1073, s. 20.)

§ 163-278.10A. Threshold of \$1,000 for financial reports for certain candidates.

(a) Notwithstanding any other provision of this Chapter, a candidate for a county office, municipal office, local school board office, soil and water conservation district board of

supervisors, or sanitary district board shall be exempted from the reports of contributions, loans, and expenditures required in G.S. 163-278.9(a), 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E if to further the candidate's campaign that candidate:

- (1) Does not receive more than one thousand dollars (\$1,000) in contributions, and
- (2) Does not receive more than one thousand dollars (\$1,000) in loans, and
- (3) Does not spend more than one thousand dollars (\$1,000).

To qualify for the exemption from those reports, the candidate's treasurer shall file a certification that the candidate does not intend to receive in contributions or loans or expend more than one thousand dollars (\$1,000) to further the candidate's campaign. The certification shall be filed with the Board at the same time the candidate files the candidate's Organizational Report as required in G.S. 163-278.7, G.S. 163-278.9, and G.S. 163-278.40A. If the candidate's campaign is being conducted by a political committee which is handling all contributions, loans, and expenditures for the candidate's campaign, the treasurer of the political committee shall file a certification of intent to stay within the threshold amount. If the intent to stay within the threshold changes, or if the one thousand dollar (\$1,000) threshold is exceeded, the treasurer shall immediately notify the Board and shall be responsible for filing all reports required in G.S. 163-278.9 and 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E; provided that any contribution, loan, or expenditure which would have been required to be reported on an earlier report but for this section shall be included on the next report required after the intent changes or the threshold is exceeded.

(b) The exemption in subsection (a) of this section applies to political party committees under the same terms as for candidates, except that the term "to further the candidate's campaign" does not relate to a political party committee's exemption, and all contributions, expenditures, and loans during an election shall be counted against the political party committee's threshold amount. (1987 (Reg. Sess., 1988), c. 1028, s. 2; c. 1081, s. 3; 1989, c. 449; c. 770, s. 53; 1997-515, s. 4(e); 2001-235, s. 3.)

§ 163-278.11. Contents of treasurer's statement of receipts and expenditures.

(a) Statements filed pursuant to provisions of this Article shall set forth the following:

(1) Contributions. – Except as provided in subsection (a1) of this section, a list of all contributions received by or on behalf of a candidate, political committee, or referendum committee. The statement shall list the name and complete mailing address of each contributor, the amount contributed, the principal occupation of the contributor, and the date such contribution was received. The total sum of all contributions to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board. As used in this section, "principal occupation of the contributor" means the contributor's:

- a. Job title or profession; and
- b. Employer's name or employer's specific field of business activity.

The State Board of Elections shall prepare a schedule of specific fields of business activity, adapting or modifying as it deems suitable the business activity classifications of the Internal Revenue Code or other relevant classification schedules. In reporting a contributor's specific field of business activity, the treasurer shall use the classification schedule prepared by the State Board.

(2) Expenditures. – A list of all expenditures required under G.S. 163-278.8 made by or on behalf of a candidate, political committee, or referendum committee. The statement shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board. In accounting for all expenditures in accordance with G.S. 163-278.8(e) and G.S. 163-278.8(f), the payee shall be the individual or person to whom the candidate, political committee, or referendum committee is obligated to make the expenditure. If the expenditure is to a financial institution for revolving credit or a reimbursement for a payment to a financial institution for revolving credit, the statement shall also include a specific itemization of the goods and services

purchased with the revolving credit. If the obligation is for more than one good or service, the statement shall include a specific itemization of the obligation so as to provide a reasonable understanding of the obligation.

(3) Loans. – Every candidate and treasurer shall attach to the campaign transmittal submitted with each report an addendum listing all proceeds derived from loans for funds used or to be used in this campaign. The addendum shall be in the form as prescribed by the State Board of Elections and shall list the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

(a1) Threshold for Reporting Identity of Contributor. – A treasurer shall not be required to report the name, address, or principal occupation of any individual who contributes fifty dollars (\$50.00) or less to the treasurer's committee during an election as defined in G.S. 163-278.13. The State Board of Elections shall provide on its reporting forms for the reporting of contributions below that threshold. On those reporting forms, the State Board may require date and amount of contributions below the threshold, but may treat differently for reporting purposes contributions below the threshold that are made in different modes and in different settings.

(b) Statements shall reflect anything of value paid for or contributed by any person or individual, both as a contribution and expenditure. A political party executive committee that makes an expenditure that benefits a candidate or group of candidates shall report the expenditure, including the date, amount, and purpose of the expenditure and the name of and office sought by the candidate or candidates on whose behalf the expenditure was made. A candidate who benefits from the expenditure shall report the expenditure or the proportionate share of the expenditure from which the candidate benefitted as an in-kind contribution if the candidate or the candidate's committee has coordinated with the political party executive committee concerning the expenditure.

(c) Best Efforts. – When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article for the candidate or political committee, any report of that candidate or committee shall be considered in compliance with this Article and shall not be the basis for criminal prosecution or the imposition of civil penalties, other than forfeiture of a contribution improperly accepted under this Article. The State Board of Elections shall promulgate rules that specify what are "best efforts" for purposes of this Article, adapting as it deems suitable the provisions of 11 C.F.R. § 104.7. The rules shall include a provision that if the treasurer, after complying with this Article and the rules, does not know the occupation of the contributor, it shall suffice for the treasurer to report "unable to obtain". (1973, c. 1272, s. 1; 1977, c. 635, s. 2; 1979, c. 1073, s. 20; 1997-515, ss. 2(a), (b), 3(a); 2006-161, s. 4; 2006-195, s. 5; 2007-391, s. 35(a); 2008-187, s. 33(a).)

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

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

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

(c) In assuring compliance with subsections (a) and (b) of this section, the State Board of Elections shall require the identification of each entity making a donation of more than one hundred dollars (\$100.00) to the entity filing the report if the donation was made for the purpose of furthering the reported independent expenditure or contribution.

(d) Contributions or expenditures required to be reported under this section shall be reported within 30 days after they exceed one hundred dollars (\$100.00) or 10 days before

an election the contributions or expenditures affect, whichever occurs earlier. (1973, c. 1272, s. 1; 1979, c. 107, s. 15; c. 1073, s. 20; 1999-31, s. 2(d); 2004-127, s. 16.)

§ 163-278.12A: Repealed by Session Laws 2004-125, s. 4, effective July 20, 2004.

§ 163-278.13. Limitation on contributions.

(a) No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any individual, other political committee, or other entity of any money or any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(d) For the purposes of this section, the term "an election" means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not "an election" with respect to that candidate.

(d1) Notwithstanding subsections (a) and (b) of this section, a candidate or political committee may accept a contribution knowing that the contribution is to be reimbursed to the entity making the contribution and knowing the candidate or political committee has funds sufficient to reimburse the entity making the contribution if all of the following conditions are met:

(1) The entity submits sufficient information of the contribution to the candidate or political committee for reimbursement within 45 days of the contribution.

(2) The candidate or political committee makes a reimbursement to the entity making the contribution within seven days of submission of sufficient information.

(3) The candidate or political committee indicates on its report under G.S. 163-278.11 that the good, service, or other item resulting in the reimbursement is an expenditure of the candidate or political committee, and notes if the contribution was by credit card.

(4) The contribution does not exceed one thousand dollars (\$1,000.00).

(d2) Any contribution, or portion thereof, made under subsection (d1) of this section that is not submitted for reimbursement in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section. Any contribution, or portion thereof, made under subsection (d1) of this section that is not reimbursed in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section.

(e) Except as provided in subsections (e2), (e3), and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96.

(e1) No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional association may make any contribution to another referendum committee, to a candidate or to a political committee.

(e2) In order to make meaningful the provisions of Article 22D of this Chapter, the following provisions shall apply with respect to candidates for justice of the Supreme Court and judge of the Court of Appeals:

(1) No candidate shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars (\$1,000) except as provided for elsewhere in this subsection.

(2) A candidate may accept, and a family contributor may make to that candidate, a contribution not exceeding two thousand dollars (\$2,000) in an election if the contributor is that candidate's parent, child, brother, or sister.

(3) Repealed by Session Laws 2008-150, s. 7(a), effective August 2, 2008. As used in this subsection, "candidate" is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

(e3) Notwithstanding the provisions of subsections (a) and (b) of this section, no candidate for superior court judge or district court judge shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars (\$1,000), except as provided in subsection (c) of this section. As used in this subsection, "candidate" is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

(e4) In order to make meaningful the provisions of the North Carolina Voter-Owned Elections Act, as set forth in Article 22J of this Chapter, no candidate for an office subject to that Article shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election if that contribution causes the candidate to exceed the "trigger for matching funds" defined in G.S. 163-278.96(17). As used in this subsection, the term "candidate" also includes "candidate campaign committee" as defined in G.S. 163-278.38Z(3). Nothing in this subsection shall prohibit a candidate from making a contribution or loan secured entirely by that candidate's assets to that candidate's own campaign or to a political committee, the principal purpose of which is to support that candidate's campaign. This subsection applies with respect to a candidate only if both of the following statements are true regarding that candidate:

(1) That candidate is opposed in the general election by a certified candidate as defined in Article 22J of this Chapter.

(2) That certified candidate has not received the maximum matching funds available under G.S. 163-278.99B(c).

The recipient of a contribution that apparently violates this subsection has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subsection.

(e5) The contribution limits of subsections (a) and (b) of this section do not apply to contributions made to an independent expenditure political committee. For purposes of this section, an "independent expenditure political committee" is a political committee whose treasurer makes and abides by a certification to the State Board of Elections that the political committee does not and will not make contributions, directly or indirectly, to candidates or to political committees that make contributions to candidates. The State Board of Elections shall provide forms for implementation of this subsection. This subsection shall not apply to a candidate or a political committee controlled by a candidate. The exception of this subsection is in addition to any other exception provided by law.

(f) Any individual, candidate, political committee, referendum committee, or other entity that violates the provisions of this section is guilty of a Class 2 misdemeanor. (1973, c. 1272, s. 1; 1979, c. 1073, ss. 8, 20; 1981, c. 225; 1987, c. 565, s. 15; 1993, c. 539, s. 1113; 1994, Ex. Sess., c. 24, s. 14(c); 1997-515, s. 8(a); 1999-31, s. 5(c); 2002-158, s. 2; 2006-192, ss. 15, 16, 17; 2007-391, s. 36; 2007-484, s. 43.8(c); 2007-510, s. 1(c); 2007-540, ss. 2, 3; 2008-150, ss. 6(c), 7(a); 2008-187, s. 33(a).)

§ 163-278.13A: Repealed by Session Laws 1997-515, s. 9.

§ 163-278.13B. Limitation on fund-raising during legislative session.

(a) Definitions. – For purposes of this section:

(1) "Limited contributor" means a lobbyist registered under Chapter 120C of the General Statutes, that lobbyist's agent, that lobbyist's principal as defined in G.S. 120C-100(11) or a political committee that employs or contracts with or whose parent

entity employs or contracts with a lobbyist registered under Chapter 120C of the General Statutes.

(2) "Limited contributee" means a member of or candidate for the Council of State, a member of or candidate for the General Assembly.

(3) The General Assembly is in "regular session" from the date set by law or resolution that the General Assembly convenes until the General Assembly either adjourns sine die or recesses or adjourns for more than 10 days.

(4) A contribution is "made" during regular session if the check or other instrument is dated during the session, or if the check or other instrument is delivered to the limited contributee during session, or if the limited contributor pledges during the session to deliver the check or other instrument at a later time.

(5) A contribution is "accepted" during regular session if the check or other instrument is dated during the session, or if the limited contributee receives the check or other instrument during session and does not return it within 10 days, or agrees during session to receive the check or other instrument at a later time.

(b) Prohibited Solicitations. – While the General Assembly is in regular session, no limited contributee or the real or purported agent of a limited contributee shall:

(1) Solicit a contribution from a limited contributor to be made to that limited contributee or to be made to any other candidate, officeholder, or political committee; or

(2) Solicit a third party, requesting or directing that the third party directly or indirectly solicit a contribution from a limited contributor or relay to the limited contributor the limited contributee's solicitation of a contribution.

It shall not be deemed a violation of this section for a limited contributee to serve on a board or committee of an organization that makes a solicitation of a limited contributor as long as that limited contributee does not directly participate in the solicitation and that limited contributee does not directly benefit from the solicitation.

(c) Prohibited Contributions. – While the General Assembly is in regular session:

(1) No limited contributor shall make or offer to make a contribution to a limited contributee.

(2) No limited contributor shall make a contribution to any candidate, officeholder, or political committee, directing or requesting that the contribution be made in turn to a limited contributee.

(3) No limited contributor shall transfer any amount of money or anything of value to any entity, directing or requesting that the entity use what was transferred to contribute to a limited contributee.

(4) No limited contributee or the real or purported agent of a limited contributee prohibited from solicitation by subsection (b) of this section shall accept a contribution from a limited contributor.

(5) No limited contributor shall solicit a contribution from any individual or political committee on behalf of a limited contributee. This subdivision does not apply to a limited contributor soliciting a contribution on behalf of a political party executive committee if the solicitation is solely for a separate segregated fund kept by the political party limited to use for activities that are not candidate-specific, including generic voter registration and get-out-the-vote efforts, pollings, mailings, and other general activities and advertising that do not refer to a specific individual candidate.

(d) Exception. – The provisions of this section do not apply with regard to a limited contributee during the three weeks prior to the day of a second primary if that limited contributee is a candidate who will be on the ballot in that second primary.

(e) Prosecution. – A violation of this section is a Class 2 misdemeanor. (1997-515, s. 9(b); 1999-31, s. 5(d); 1999-453, s. 6(a); 2000-136, s. 1; 2006-201, s. 21.)

§ 163-278.13C. Campaign contributions prohibition.

(a) No lobbyist may make a contribution as defined in G.S. 163-278.6 to a candidate or candidate campaign committee as defined in G.S. 163-278.38Z when that candidate meets any of the following criteria:

(1) Is a legislator as defined in G.S. 120C-100.

(2) Is a public servant as defined in G.S. 138A-3(30)a. and G.S. 120C-104.

(b) No lobbyist may collect contributions from multiple contributors, take possession of such multiple contributions, or transfer or deliver the collected multiple contributions to the intended recipient. This section shall apply only to contributions to a candidate or candidate campaign committee as defined in G.S. 163-278.38Z when that candidate is a legislator as defined in G.S. 120C-100 or a public servant as defined in G.S. 138A-3(30)a.

(c) This section shall not apply to a lobbyist, who has filed a notice of candidacy for office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or has been nominated under G.S. 163-114 or G.S. 163-98, making a contribution to that lobbyist's candidate campaign committee.

(d) For purposes of this section, the term "lobbyist" shall mean an individual registered as a lobbyist under Chapter 120C of the General Statutes. (2006-201, s. 18; 2007-347, s. 5(a), (b); 2008-213, s. 86.)

§ 163-278.14. No contributions in names of others; no anonymous contributions; contributions in excess of fifty dollars; no contribution without specific designation of contributor.

(a) No individual, political committee, or other entity shall make any contribution anonymously or in the name of another. No candidate, political committee, referendum committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously. If a candidate, political committee, referendum committee, political party, or treasurer receives anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North Carolina.

(b) No entity shall make, and no candidate, committee or treasurer shall accept, any monetary contribution in excess of fifty dollars (\$50.00) unless such contribution is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No contribution in the form of check, draft, money order, credit card charge, debits, or other noncash method may be made or accepted unless it contains a specific designation of the intended contributee chosen by the contributor. The State Board of Elections may prescribe guidelines as to the reporting and verification of any method of contribution payment allowed under this Article. For contributions by money order, the State Board shall prescribe methods to ensure an audit trail for every contribution so that the identity of the contributor can be determined. For a contribution made by credit card, the credit card account number of a contributor is not a public record.

(c) No political committee or referendum committee shall make any contribution unless in doing so it reports to the recipient the contributor's name as required in G.S. 163-278.7(b)(1). (1973, c. 1272, s. 1; 1979, c. 1073, s. 19; 1987, c. 113, s. 2; 1999-453, s. 4(a); 2001-319, s. 10(a); 2002-159, s. 55(k); 2004-125, s. 5(b); 2005-430, s. 1; 2006-195, ss. 1, 5.2; 2007-484, s. 23.)

§ 163-278.14A. Evidence that communications are "to support or oppose the nomination or election of one or more clearly identified candidates."

(a) The following shall be means of proving that an individual or other entity acted "to support or oppose the nomination or election of one or more clearly identified candidates": presenting evidence of financial sponsorship of communications to the general public that use phrases such as "vote for", "reelect", "support", "cast your ballot for", "(name of candidate) for (name of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", "vote pro-(policy position)" or "vote anti-(policy position)" accompanied by a list of candidates clearly labeled "pro-(policy position)" or "anti-(policy position)", or communications of campaign words or slogans, such as posters, bumper stickers, advertisements, etc., which say "(name of candidate)'s the One", "(name of candidate) '98", "(name of candidate)!", or the names of two candidates joined by a hyphen or slash.

(b) Notwithstanding the provisions of subsection (a) of this section, a communication shall not be subject to regulation as a contribution or expenditure under this Article if it:

- (1) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, or magazine, unless those facilities are owned or controlled by any political party, or political committee;
- (2) Is distributed by a corporation solely to its stockholders and employees; or
- (3) Is distributed by any organization, association, or labor union solely to its members or to subscribers or recipients of its regular publications, or is made available to individuals in response to their request, including through the Internet. (1999-453, s. 3(a); 2008-150, s. 6(b).)

§ 163-278.15. No acceptance of contributions made by corporations, foreign and domestic, or other prohibited sources.

(a) No candidate, political committee, political party, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina, or made by any business entity, labor union, professional association, or insurance company. This section does not apply with regard to entities permitted to make contributions by G.S. 163-278.19(f).

(b) A candidate or political committee may accept a contribution knowing that the contribution is the proceeds of a loan made in the ordinary course of business by a financial institution if all of the following conditions are met:

- (1) The full amount of the loan is secured by collateral placed, or by guaranties given, by one or more individuals or entities who are not prohibited by this Article from making contributions to the candidate or political committee. The value of the collateral posted by each individual or entity, or the amount of each guaranty, may not exceed the contribution limitations applicable under this Article to each individual or entity. The value of collateral posted may exceed the contribution limitations applicable under this Article in cases where the amount of the loan secured by that collateral does not exceed the contribution limitations applicable to the individual or entity.
- (2) During the time that any loan remains outstanding and unpaid, then the value of any collateral posted, or the amount of each guaranty, for that loan shall be considered to be a contribution by the individual or entity securing the loan. If the loan, or any portion of the loan, is repaid to the financial institution by the candidate or political committee to whom the loan was made during the contribution limitation period for the same "election" as defined in G.S. 163-278.13(d) in which the loan was made, the individual or entity securing the loan shall be eligible to further contribute to that candidate or political committee up to the amount of the repayment. If multiple individuals or entities secured the loan that is repaid to the financial institution by the candidate or political committee, then the amount repaid shall be prorated amongst the multiple individuals or entities.
- (3) If the loan is to the candidate or political committee, only the candidate, the candidate's spouse, or the political committee to whom the loan was made may repay the loan.

The State Board of Elections shall develop forms for reporting the proceeds of loans in a full and accurate manner. (1973, c. 1272, s. 1; 1999-31, s. 5(e); 2006-195, s. 6; 2006-262, s. 4.1(c).)

§ 163-278.16. Regulations regarding timing of contributions and expenditures.

(a) Except as provided in G.S. 163-278.6(14) and G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

- (1) Until the candidate, political committee, or referendum committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and

- (2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee.
- (b) through (e) Repealed by Session Laws 1975, c. 565, s. 2.
- (f), (g) Repealed by Session Laws 1999-453, s. 2(b). (1973, c. 1272, s. 1; 1975, c. 565, s. 2; 1979, c. 500, s. 4; c. 1073, ss. 19, 20; 1987, c. 652; 1997-515, s. 13.1(a); 1999-31, ss. 1(d), 4(b); 1999-453, s. 2(b).)

§ 163-278.16A. Restriction on use of State funds by declared candidate for Council of State for advertising or public service announcements using their names, pictures, or voices.

After December 31 prior to a general election in which a Council of State office will be on the ballot, no declared candidate for that Council of State office shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains that declared candidate's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to that candidate's official function. For purposes of this section, "declared candidate" means someone who has publicly announced an intention to run. (1997-515, s. 13(a).)

§ 163-278.16B. Use of contributions for certain purposes.

- (a) A candidate or candidate campaign committee may use contributions only for the following purposes:
- (1) Expenditures resulting from the campaign for public office by the candidate or candidate's campaign committee.
 - (2) Expenditures resulting from holding public office.
 - (3) Donations to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
 - (4) Contributions to a national, State, or district or county committee of a political party or a caucus of the political party.
 - (5) Contributions to another candidate or candidate's campaign committee.
 - (6) To return all or a portion of a contribution to the contributor.
 - (7) Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article imposed by a board of elections or a court of competent jurisdiction.
 - (8) Payment to the Escheat Fund established by Chapter 116B of the General Statutes.
 - (9) Legal expense donation not in excess of four thousand dollars (\$4,000) per calendar year to a legal expense fund established pursuant to Article 22M of Chapter 163 of the General Statutes.
- (b) As used in this section, the term "candidate campaign committee" means the same as in G.S. 163-278.38Z(3).
- (c) Contributions made to a candidate or candidate campaign committee do not become a part of the personal estate of the individual candidate. The candidate may file with the board a written designation of those funds that directs to which of the permitted uses in subsection (a) of this section they shall be paid in the event of the death or incapacity of the candidate. After the payment of permitted outstanding debts of the account, the candidate's filed written designation shall control. If the candidate files no such written designation, the funds after payment of permitted outstanding debts shall be distributed in accordance with subdivision (a)(8) of this section. (2006-161, s. 1; 2007-391, s. 30; 2008-187, s. 33(a); 2008-213, s. 87.)

§ 163-278.17. Statements of media receiving campaign expenditures.

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

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

(c) Repealed by Session Laws 1985, c. 183, s. 2. (1973, c. 1272, s. 1; 1975, c. 565, s. 3; 1979, c. 500, ss. 5, 6; c. 1073, s. 9; 1985, c. 183, ss. 1, 2.)

§ 163-278.18. Normal commercial charges for political advertising.

(a) No media and no supplier of materials or services shall charge or require a candidate, treasurer, political party, or individual to pay a charge for advertising, materials, space, or services purchased for or in support of or in opposition to any candidate, political committee, or political party that is higher than the normal charge it requires other customers to pay for comparable advertising, materials, space, or services purchased for other purposes.

(b) A newspaper, magazine, or other advertising medium shall not charge any candidate, treasurer, political committee, political party, or individual for any advertising for or in support of or in opposition to any candidate, political committee or political party at a rate higher than the comparable rate charged to other persons for advertising of comparable frequency and volume; and every candidate, treasurer, political party or individual, with respect to political advertising, shall be entitled to the same discounts afforded by the advertising medium to other advertisers under comparable conditions and circumstances. (1973, c. 1272, s. 1; 1977, c. 856.)

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

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

(1) To make any contribution to a candidate or political committee or to make any expenditure to support or oppose the nomination or election of a clearly identified candidate;

(2) To pay or use or offer, consent or agree to pay or use any of its money or property for any contribution to a candidate or political committee or for any expenditure to support or oppose the nomination or election of a clearly identified candidate; or

(3) To compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so made;

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

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

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

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

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

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

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

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

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

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

- (1) Has as an express purpose promoting social, educational, or political ideas and not to generate business income;

(2) Does not have shareholders or other persons which have an economic interest in its assets and earnings; and

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

(g) If a political committee has as its only purpose accepting contributions and making expenditures to influence elections, and that political committee incorporates as a nonprofit corporation to shield its participants from liability created outside this Chapter, that political committee is not considered to be a corporation for purposes of this section. Incorporation of a political committee does not relieve any individual, person, or other entity of any liability, duty, or obligation created pursuant to any provision of this Chapter. To obtain the benefits of this subsection, an incorporating political committee must state exactly the following language as the only purpose for which the corporation can be organized: "to accept contributions and make expenditures to influence elections as a political committee pursuant to G.S. 163-278.6(14) only." No political committee shall do business as a political committee after incorporation unless it has been certified by the State Board of Elections as being in compliance with this subsection. (1973, c. 1272, s. 1; 1975, c. 565, s. 6; 1979, c. 517, ss. 1, 2; 1985, c. 354; 1987, c. 113, s. 3; c. 565, s. 16; 1993, c. 539, ss. 1115, 1116; c. 553, s. 69; 1994, Ex. Sess., c. 24, s. 14(c); 1999-31, ss. 4(d), 5(a), 6(b); 2001-487, s. 97(a); 2002-159, s. 57.3(a), (b); 2006-195, s. 3; 2006-262, ss. 4.1(a), (b), 4.3.)

§ 163-278.19A. Contributions allowed.

Notwithstanding any other provision of this Chapter, it is lawful for any person as defined in G.S. 163-278.6(13) to contribute to a referendum committee. (1979, c. 1073, s. 7.)

§ 163-278.19B. Political party headquarters building funds.

Notwithstanding the provisions of G.S. 163-278.19, a person prohibited by that section from making a contribution may donate to political parties and political parties may accept from such a person money and other things of value donated to a political party headquarters building fund. Donations to the political party headquarters building fund shall be subject to all the following rules:

(1) The donations solicited and accepted are designated to the political party headquarters building fund.

(2) Potential donors to that fund are advised that all donations will be exclusively for the political party headquarters building fund.

(3) The political party establishes a separate segregated bank account into which shall be deposited only donations for the political party headquarters building fund from persons prohibited by G.S. 163-278.19 from making contributions.

(4) The donations deposited in the separate segregated bank account for the political party headquarters building fund will be spent only to purchase a headquarters building, to construct a headquarters building, to renovate a headquarters building, to pay a mortgage on a headquarters building, or to repay donors if a headquarters building is not purchased, constructed, or renovated. Donations deposited into that account shall not be used for headquarters rent, utilities, or equipment other than fixtures.

(5) The political party executive committee shall report donations to and spending by a political party headquarters building fund on every report required to be made by G.S. 163-278.9. If a committee is excused from making general campaign finance reports under G.S. 163-278.10A, that committee shall nonetheless report donations in any amount to and spending in any amount by the political party headquarters building fund at the times required for reports in G.S. 163-278.9.

If all the criteria set forth in subdivisions (1) through (5) of this section are complied with, then donations to and spending by a political party headquarters building fund do not constitute contributions or expenditures as defined in G.S. 163-278.6. If those criteria are

complied with, then donations may be made to a political party headquarters building fund. (1999-426, s. 9(a).)

§ 163-278.20: Repealed by Session Laws 2006-195, s. 2, effective January 1, 2007, and applicable to all contributions made and accepted on and after that date.

§ 163-278.21. Promulgation of policy and administration through State Board of Elections.

The State Board of Elections shall have responsibility, adequate staff, equipment and facilities, for promulgating all regulations necessary for the enforcement and administration of this Article and to prevent the circumvention of the provisions of this Article. The State Board of Elections shall empower the Executive Director with the responsibility for the administrative operations required to administer this Article and may delegate or assign to him such other duties from time to time by regulations or orders of the State Board of Elections. (1973, c. 1272, s. 1; 1975, c. 798, s. 7; 1999-453, s. 5(c); 2001-319, s. 11.)

§ 163-278.22. Duties of State Board.

It shall be the duty and power of the State Board:

(1) To prescribe forms of statements and other information required to be filed by this Article, to furnish such forms to the county boards of elections and individuals, media or others required to file such statements and information, and to prepare, publish and distribute or cause to be distributed to all candidates at the time they file notices of candidacy a manual setting forth the provisions of this Article and a prescribed uniform system for accounts required to file statements by this Article.

(2) To accept and file any information voluntarily supplied that exceeds the requirements of this Article.

(3) To develop a filing, coding, and cross-indexing system consonant with the purposes of this Article.

(4) To make statements and other information filed with it available to the public at a charge not to exceed actual cost of copying.

(5) To preserve reports and statements filed under this Article. Such reports and statements, after a period of two years following the election year, may be transferred to the Department of Cultural Resources, Office of Archives and History, and shall be preserved for a period of 10 years.

(6) To prepare and publish such reports as it may deem appropriate.

(7) To make investigations to the extent the Board deems necessary with respect to statements filed under the provisions of this Article and with respect to alleged failures to file any statement required under the provisions of this Article or Article 22M of the General Statutes and, upon complaint under oath by any registered voter, with respect to alleged violations of any part of this Article or Article 22M of the General Statutes.

(8) After investigation, to report apparent violations by candidates, political committees, referendum committees, legal expense funds, individuals or persons to the proper district attorney as provided in G.S. 163-278.27.

(9) To prescribe and furnish forms of statements and other material to the county boards of elections for distribution to candidates and committees required to be filed with the county boards.

(10) To instruct the chairman and director of elections of each county board as to their respective duties and responsibilities relative to the administration of this Article.

(11) To require appropriate certification of delinquent or late filings from the county boards of elections and to execute the same responsibilities relative to such reports as provided in G.S. 163-278.27.

(12) To assist county boards of elections in resolving questions arising from the administration of this Article.

(13) To require county boards of elections to hold such hearings, make such investigations, and make reports to the State Board as the State Board deems necessary in the administration of this Article.

(14) To calculate, assess, and collect civil penalties pursuant to this Article. (1973, c. 1272, s. 1; 1975, c. 798, s. 8; 1977, c. 626, s. 1; 1979, c. 500, ss. 9, 12, 13; c. 1073, s. 18; 1995, c. 243, s. 1; 1997-515, s. 7(e); 2002-159, s. 35(n); 2007-349, ss. 2, 3.)

§ 163-278.23. Duties of Executive Director of Board.

The Executive Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 30 days after the date it is filed. The Executive Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, media, or other entity that may be required to file a statement under this Article if:

(1) It appears that the individual, candidate, treasurer, political committee, referendum committee, media, or other entity has failed to file a statement as required by law or that a statement filed does not conform to this Article; or

(2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the Board does not conform to this Article or to the truth or that an individual, candidate, treasurer, political committee, referendum committee, media, or other entity has failed to file a statement required by this Article. The entity that is the subject of the complaint will be given an opportunity to respond to the complaint before any action is taken requiring compliance.

The Executive Director of the Board of Elections shall issue written opinions to candidates, the communications media, political committees, referendum committees, or other entities upon request, regarding filing procedures and compliance with this Article. Any such opinion so issued shall specifically refer to this paragraph. If the candidate, communications media, political committees, referendum committees, or other entities rely on and comply with the opinion of the Executive Director of the Board of Elections, then prosecution or civil action on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Director of the Board of Elections issued to the candidate or committee involved shall be barred. Nothing in this paragraph shall be construed to prohibit or delay the regular and timely filing of reports. The Executive Director shall file all opinions issued pursuant to this section with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

This section applies to Articles 22B, 22D, 22E, 22F, 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article. (1973, c. 1272, s. 1; 1975, c. 334; c. 565, s. 4; 1979, c. 500, s. 7; c. 1073, ss. 12, 13, 17; 1985, c. 759, s. 6.1; 1999-424, s. 6(c); 1999-453, s. 5(b); 1999-456, s. 63; 2001-319, s. 11; 2005-430, s. 8; 2007-349, s. 6.)

§ 163-278.24. Statements examined within four months.

Within four months after the date of each election or referendum, the Executive Director shall examine or cause to be examined each statement filed with the Board under this Article, and, referring to the election or referendum, determine whether the statement conforms to law and to the truth. (1973, c. 1272, s. 1; 1979, c. 500, s. 8; c. 1073, s. 14; 1985, c. 183, s. 3; 2001-319, s. 11.)

§ 163-278.25. Issuance of declaration of nomination or certificate of election.

No declaration of nomination and no certificate of election shall be granted to any candidate until the candidate or his treasurer has filed the statements referring to the election he is required to file under this Article. Within 24 hours after reaching a decision that a declaration of nomination or certificate of election should not be granted, the Board shall give written

notice of that decision, by telegraph or certified mail, to the candidate and the candidate's treasurer. Failure to grant certification shall not affect a successful candidate's title to an office to which he has been otherwise duly elected. (1973, c. 1272, s. 1.)

§ 163-278.26. Appeals from State Board of Elections; early docketing.

Any candidate for nomination or election who is denied a declaration of nomination or certificate of election, pursuant to G.S. 163-278.25, may, within five days after the action of the Board under that section, appeal to the Superior Court of Wake County for a final determination of any questions of law or fact which may be involved in the Board's action. The cause shall be entitled "In the Matter of the Candidacy of _____ ." It shall be placed on the civil docket of that court and shall have precedence over all other civil actions. In the event of an appeal, the chairman of the Board shall certify the record to the clerk of that court within five days after the appeal is noted.

The record on appeal shall consist of all reports filed by the candidate or his treasurer with the Board pursuant to this Article, and a memorandum of the Board setting forth with particularity the reasons for its action in denying the candidate a declaration of nomination or certificate of election. Written notice of the appeal shall be given to the Board by the candidate or his attorney, and may be effected by mail or personal delivery. On appeal, the cause shall be heard de novo. (1973, c. 1272, s. 1.)

§ 163-278.27. Criminal penalties; duty to report and prosecute.

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D, 163-278.40E, or 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(a1) A violation of G.S. 163-278.32 by making a certification knowing the information to be untrue is a Class I felony.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case

be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge. (1973, c. 1272, s. 1; 1979, c. 500, s. 10; c. 1073, ss. 15, 19; 1981, c. 837, s. 4; 1987, c. 565, s. 17; 1993, c. 539, s. 1118; 1994, Ex. Sess., c. 24, s. 14(c); 1999-453, s. 2(c); 2001-419, s. 2; 2006-161, s. 5; 2007-391, s. 1(b); 2008-150, s. 9(b); 2008-187, s. 29.)

§ 163-278.28. Issuance of injunctions; special prosecutors named.

(a) The superior courts of this State shall have jurisdiction to issue injunctions or grant any other equitable relief appropriate to enforce the provisions of this Article upon application by any registered voter of the State.

(b) If the Board makes a report to a district attorney under G.S. 163-278.27 and no prosecution is initiated within 45 days after the report is made, any registered voter of the prosecutorial district to whose district attorney a report has been made, or any board of elections in that district, may, by verified affidavit, petition the superior court for that district for the appointment of a special prosecutor to prosecute the individuals or persons who have or who are believed to have violated any section of this Article. Upon receipt of a petition for the appointment of a special prosecutor, the superior court shall issue an order to show cause, directed at the individuals or persons alleged in the petition to be in violation of this Article, why a special prosecutor should not be appointed. If there is no answer to the order, the court shall appoint a special prosecutor. If there is an answer, the court shall hold a hearing on the order, at which both the petitioning and answering parties may be heard, to determine whether a prima facie case of a violation and failure to prosecute exists. If there is such a prima facie case, the court shall so find and shall thereupon appoint a special prosecutor to prosecute the alleged violators. The special prosecutor shall take the oath required of assistant district attorneys by G.S. 7A-63, shall serve as an assistant district attorney pro tem of the appropriate district, and shall prosecute the alleged violators. (1973, c. 1272, s. 1; 1979, c. 500, s. 11.)

§ 163-278.29. Compelling self-incriminating testimony; individual so testifying excused from prosecution.

No individual shall be excused from attending or testifying or producing any books, papers, or other documents before any court upon any proceeding or trial of another for the violation of any of the provisions of this Article, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but such individual may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this Article; but such individual shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be compelled to testify or produce evidence, documentary or otherwise, and no compelled testimony so given or produced shall be used against him upon any criminal proceeding, but such individual so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof. (1973, c. 1272, s. 1.)

§ 163-278.30. Candidates for federal offices to file information reports.

Candidates for nomination in a party primary or for election in a general or special election to the offices of United States Senator, member of the United States House of Representatives, President or Vice-President of the United States shall file with the Board all reports they or political committee treasurers or other agents acting for them are required to file under the Federal Election Campaign Act of 1971, P.L. 92-225, as amended (T. 2, U.S.C. section 439). Those reports shall be filed with the Board at the times required by that act. The Board shall, with respect to those reports, have the following duties only:

- (1) To receive and maintain in an orderly manner all reports and statements required to be filed with it;
- (2) To preserve reports and statements filed under the Federal Election Campaign Act. Such reports and statements, after a period of two years following the election

year, may be transferred to the Department of Cultural Resources, Division of Archives and History, and shall be preserved for a period of 10 years or for such period as may be required by federal law.

(3) To make the reports and statements filed with it available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which they were received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any individual, at the expense of such individual; and

(4) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

Any duty of a candidate to file and the State Board to receive and make available under this section may be met by an agreement between the State Board and the Federal Election Commission, the effect of which is for the Federal Election Commission to provide promptly to the State Board the information required by this section. (1973, c. 1272, s. 1; 1979, c. 500, s. 14; 2002-159, s. 55(l).)

§ 163-278.31: Repealed by Session Laws 1985, c. 183, s. 4.

§ 163-278.32. Statements under oath.

Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be certified as true and correct to the best of the knowledge of the individual, media, candidate, treasurer or others filing the statement; provided further that the candidate shall certify as true and correct to the best of his knowledge the organizational report and appointment of treasurer filed for the candidate or the candidate's principal campaign committee. A certification under this Article shall be treated as under oath, and any person making a certification under this Article knowing the information to be untrue is guilty of a Class I felony. (1973, c. 1272, s. 1; 1999-426, s. 10(a); 2001-235, s. 1; 2007-391, s. 1(a).)

§ 163-278.33. Applicability of Article 22.

Sections 163-271 through 163-278 shall be applicable to the offices covered by this Article and G.S. 163-271 through 163-278 shall be applicable to all elective offices not covered by this Article. (1973, c. 1272, s. 3; 1975, c. 50; c. 565, s. 10; 2002-159, s. 21(f).)

§ 163-278.34. Civil penalties.

(a) Civil Penalties for Late Filing. – Except as provided in G.S. 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and

(2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark. No civil late penalty shall be assessed for any day when the Board office at which the report is due is closed. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by mail, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

If the Board determines by clear and convincing evidence that the late filing constitutes a willful attempt to conceal contributions or expenditures, the Board may assess a civil penalty in an amount to be determined by that Board, plus the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

(b) **Civil Penalties for Illegal Contributions and Expenditures.** – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution or makes an unlawful expenditure in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) **Civil Remedies Other Than Penalties.** – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

(1) Issue an order requiring the violator to cease and desist from the violation found.

(2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

(3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.

(4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.

(5) Publicly reprimand the violator for the violation.

(d) **Facts in Mitigation.** – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

(e) **Calculation and Assessment.** – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

(f) **Notifying and Consulting With District Attorney.** – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the district attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation. (1973, c. 1272, s. 1; 1975, c. 565, s. 5; 1979, c. 1073, s. 19; 1997-515, s. 7(a); 2001-353, s. 10; 2001-419, s. 1; 2007-391, ss. 2(a), 37; 2008-187, s. 33(a).)

§ 163-278.34A. Presumptions.

In any proceeding brought pursuant to this Article in which a presumption arises from the proof of certain facts, the defendant may offer some evidence to rebut the presumption, but the State bears the ultimate burden of proving the essential elements of its case. (1999-31, s. 1(c); 1999-453, s. 3.1(a).)

§ 163-278.35. Preservation of records.

All reports, records and accounts required by this Article to be made, kept, filed, or maintained by any individual, media, candidate or treasurer shall be preserved and retained by the individual, media, candidate or treasurer for at least two years counting from the date of the election to which such reports, records and accounts refer. (1973, c. 1272, s. 1.)

§ 163-278.36: Repealed by Session Laws 2007-349, s. 4, effective January 1, 2008.

§ 163-278.37. County boards of elections to preserve reports.

The county boards of elections shall preserve all reports and statements filed with them pursuant to this Article for such period of time as directed by the State Board of Elections. (1979, c. 500, s. 15.)

§ 163-278.38. Effect of failure to comply.

The failure to comply with the provisions of this Article shall not invalidate the results of any referendum. (1979, c. 1073, s. 11.)

Part 1A. Disclosure Requirements for Media Advertisements.

§ 163-278.38Z. Definitions.

As used in this Part:

- (1) "Advertisement" means any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under this Article.
- (2) "Candidate" means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner authorized by law, or has filed a statement of organization under G.S. 163-278.7 and is required to file periodic financial disclosure statements under G.S. 163-278.9.
- (3) "Candidate campaign committee" means any political committee organized by or under the direction of a candidate.
- (4) "Full-screen" means the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen.
- (5) "Political action committee" has the same meaning as "political committee" in G.S. 163-278.6(14), except that "political action committee" does not include any political party or political party organization.
- (6) "Political party organization" means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party chair.
- (7) "Print media" means billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor advertising facilities. A "mass mailing" is a mailing with more than 500 pieces.

(8) "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(9) "Scan line" means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

(10) "Sponsor" means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.

(11) "Television" means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(12) "Unobscured" means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face. (1999-453, s. 2(a); 2004-203, s. 12(a).)

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

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

(1) It bears the legend or includes the statement: "Paid for by _____ [Name of candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor]." In television advertisements, this disclosure shall be made by visual legend.

(2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).

(3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.

(4) The sponsor states in the advertisement its position for or against a ballot measure, provided that this subdivision applies only if the advertisement is made for or against a ballot measure.

(5) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [name of candidate], candidate for [name of office]" or "Not authorized by a candidate." This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.

(6) In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement. This subdivision applies only when the sponsor coordinates or consults about the advertisement or the expenditure for it with the candidate who is intended to benefit.

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

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

(c) Misrepresentation of Authorization. – Notwithstanding G.S. 163-278.27(a), any candidate, candidate campaign committee, political party organization, political action

committee, referendum committee, individual, or other sponsor making an advertisement in the print media or on radio or television bearing any legend required by subsection (a) of this section that misrepresents the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor. (1999-453, s. 2(a); 2001-317, s. 1; 2001-353, s. 5.)

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

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

(b) Disclosure Requirements for Television. –

(1) Candidate advertisements on television. – Television advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is____") [name of candidate], candidate for [name of office], and I (or "my campaign____") sponsored this ad." This subdivision applies only to an advertisement that mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.

(2) Political party advertisements on television. – Television advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: "The [name of political party organization] sponsored this ad opposing/supporting [name of candidate] for [name of office]." The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.

(3) Political action committee advertisements on television. – Television advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: "The [name of political action committee] political action committee sponsored this ad opposing/supporting [name of candidate] for [name of office]." The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).

(4) Advertisements on television by an individual. – Television advertisements purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and I sponsored this advertisement opposing/supporting [name of candidate] for [name of office]."

(5) Advertisements on television by another sponsor. – Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] sponsored this ad."

(6) All advertisements on television. – In any television advertisement described in subdivisions (1) through (4) of this subsection, an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, shall be featured throughout the duration of the disclosure statement.

(c) Disclosure Requirements for Radio. –

(1) Candidate advertisements on radio. – Radio advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is____") [name of candidate], candidate for [name of office], and this ad was paid for (or "sponsored" or "furnished") by [name of candidate campaign committee that paid for the advertisement]." This subdivision applies only to an advertisement that mentions the name of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.

(2) Political party advertisements on radio. – Radio advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political party]." The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.

(3) Political action committee advertisements on radio. – Radio advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political action committee] political action committee." The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required by G.S. 163-278.7(b)(1).

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

(5) Advertisements on radio by another sponsor. – Radio advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] paid for (or "sponsored" or "furnished") this ad."

(d) Placement of Disclosure Statement in Television and Radio Advertisements. –

In advertisements on television, a sponsor may place the disclosure statement required by this section at any point during the advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The sponsor may provide the oral disclosure statement required by this section at the same time as the visual disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, is shown. But any visual disclosure legend shall be at least 32 scan lines in size. For advertisements on radio, the placement of the oral disclosure statement shall comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

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

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

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

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

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

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

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

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

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

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

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

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

(i) No Criminal Liability. – Nothing in this section regarding the disclosure requirements in subsections (b) and (c) of this section shall be relied upon or otherwise interpreted to create criminal liability. (1999-453, s. 2(a); 2000-140, ss. 83, 84; 2001-317, s. 2.)

§ 163-278.39B: Recodified as G.S. 163-278.38Z by Session Laws 2004-203, s. 12(a), effective August 17, 2004.

§ 163-278.39C. Scope of disclosure requirements.

The disclosure requirements of this Part apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under this Article, except that the disclosure requirements of this Part:

- (1) Do not apply to an individual who makes uncoordinated independent expenditures aggregating less than one thousand dollars (\$1,000) in a political campaign; and
- (2) Do not apply to an individual who incurs expenses with respect to a referendum.

The disclosure requirements of this Part do not apply to any advertisement the expenditure for which is required to be disclosed by G.S. 163-278.12A alone and by no other law. (1999-453, s. 2(a).)

Part 2. Municipal Campaign Reporting.

§ 163-278.40. Definitions.

When used in this Part, words and phrases have the same meaning as in G.S. 163-278.6, except that:

- (1) The term "board" means the county board of elections;
- (2) The term "city" means any incorporated city, town, or village. (1981, c. 837, s. 3; 1997-515, s. 4(d).)

§ 163-278.40A. Organizational report.

(a) Each candidate and political committee in a city election shall appoint a treasurer and, under verification, report the name and address of the treasurer to the board. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer. If the candidate fails to designate a treasurer, the candidate shall be deemed to have appointed himself as treasurer. A candidate or political committee may remove his or its treasurer.

(b) The organizational report shall state the bank account and number of such campaign fund. Each report required by this Part shall reflect all contributions, expenditures and loans made in behalf of a candidate. The organizational report shall be filed with the county board of elections within 10 days after the candidate files a notice of candidacy with the county board of elections, or within 10 days following the organization of the political committee, whichever occurs first. (1981, c. 837, s. 3.)

§ 163-278.40B. Campaign report; partisan election.

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.

(1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.

(2) Pre-election Report. – The treasurer shall file a report 10 days before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.

(3) Repealed by Session Laws 1985, c. 164, s. 2.

(4) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this

section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 2; 1987 (Reg. Sess., 1988), c. 1028, s. 7; 2001-419, s. 3.)

§ 163-278.40C. Campaign report; nonpartisan election and runoff.

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a) (4) and 163-293, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report with the board 10 days before the election.

(1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.

(2) Repealed by Session Laws 1985, c. 164, s. 3.

(3) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 3; 1987 (Reg. Sess., 1988), c. 1028, s. 8; 2001-419, s. 4.)

§ 163-278.40D. Campaign report; nonpartisan primary and elections.

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.

(1a) Pre-primary and Pre-election Reports. – The treasurer shall file a report 10 days before the primary if the candidate is in a primary and 10 days before the election.

(2) Repealed by Session laws 1985, c. 164, s. 4.

(3) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 4; 1987 (Reg. Sess., 1988), c. 1028, s. 9; 2001-419, s. 5.)

§ 163-278.40E. Campaign report; nonpartisan plurality.

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report 10 days before the election.

(2) Repealed by Session Laws 1985, c. 164, s. 5.

(3) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 5; 1987 (Reg. Sess., 1988), c. 1028, s. 10; 2001-419, s. 6.)

§ 163-278.40F. Form of report.

Forms of reports under this Part shall be prescribed by the board. (1981, c. 837, s. 3.)

§ 163-278.40G. Content.

Except as otherwise provided in this Part, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported. (1981, c. 837, s. 3.)

§ 163-278.40H. Notice of reports due.

The director of the board shall advise, or cause to be advised, no less than five days nor more than 15 days before each report is due each candidate or treasurer whose organizational report has been filed under G.S. 163-278.40A of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, or political committee, to file a statement under this Part if:

(1) It appears that the individual, candidate, treasurer, or political committee has failed to file a statement as required by law or that a statement filed does not conform to this Part; or

(2) A written complaint is filed under oath with the board by any registered voter of this State alleging that a statement filed with the board does not conform to this Part or to the truth or that an individual, candidate, treasurer, or political committee has failed to file a statement required by this Part. (1981, c. 837, s. 3; 1995, c. 243, s. 1.)

§ 163-278.40I. Part 1 to apply.

(a) Except as provided in this Part or in G.S. 163-278.9(d), the provisions of Part 1 shall apply to municipal elections covered by this Part.

(b) G.S. 163-278.7, 163-278.9(a), (b) and (c), 163-278.22(1) and (9), the first paragraph of 163-278.23, 163-278.24, 163-278.25, and 163-278.26 shall not apply to this Part. (1981, c. 837, s. 3.)

§ 163-278.40J. Other committees report by municipal schedule.

A candidate or political committee that appoints a treasurer under G.S. 163-278.7 shall make reports according to the schedule under this Part if it makes contributions or expenditures concerning municipal elections. (2008-150, s. 9(a).)

Article 22B. Appropriations from the North Carolina Political Parties Financing Fund.

§ 163-278.41. Appropriations in general election years and other years.

(a) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which a presidential election is held, the State chair of that political party may apply to the State Board of Elections (State Board) for the disbursement of all funds deposited with the State Treasurer on behalf of that party in the North Carolina Political Parties Financing Fund (Political Parties Fund) to be administered by the State Board of Elections and in which shall be placed money contributed by taxpayers, as provided in G.S. 105-159.1. If the regular date set for a primary in G.S. 163-1 or nominating convention in G.S. 163-98 is temporarily postponed for one election year, the State party chair may apply for the disbursement after the regular date set in those sections for that party's primary or convention, even though the primary has not occurred under the temporary schedule. Upon receipt of that application, the State Board shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by the State Treasurer on behalf of that chair's political party, but provided that all such payments shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Upon receipt of that application, the State Board shall pay over to the chair all funds currently held by the State Treasurer in the "Presidential Election Year Candidates Fund" of that party, which funds shall be allocated and disbursed during the presidential election year by the same procedure as the funds received from the Political Parties Fund are allocated. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by the State Treasurer until eligible for distribution pursuant to this section.

(b) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which there is not a presidential election, the State chair of the political party may apply to the State Board for the disbursement of all funds deposited on behalf of such party in the Political Parties Fund. If the regular date set for a primary in G.S. 163-1 or nominating convention in G.S. 163-98 is temporarily postponed for one election year, the State party chair may apply for the disbursement after the regular date set in those sections for that party's primary or convention, even though the primary has not occurred under the temporary schedule. Upon receipt of such application, the State Board shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by the State Treasurer on behalf of that chair's political party provided that all such payments to the chairman shall cease 30 days after the State Board of Elections has certified all of the results of the general election. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by the State Treasurer until eligible for distribution pursuant to this section.

(c) In each year in which no general election is held, each State chair of a political party on behalf of which funds have been deposited in the Political Parties Fund may, on or between August 1 and September 1 thereof, apply to the State Board for payment of an amount not to exceed fifty percent (50%) of the then available funds credited to the account of that party. Upon receipt of such application, the State Board shall pay over to that State chair an amount not to exceed fifty percent (50%) of the then available funds credited to the account of that party. Additionally and upon receipt of that application, the State Board shall direct the State Treasurer to place fifty percent (50%) of those available funds in a separate interest bearing account to be known as the "Presidential Election Year Candidates Fund of the (name of the party) Party" to be disbursed in accord with the provisions of subsection (a) above. Any remaining funds of the political party in the hands of the State Treasurer shall

thereafter be held by the State Treasurer until eligible for distribution by the State Board pursuant to this section. Any interest earned on the funds deposited in such Presidential Election Year Campaign Fund shall be credited thereto. (1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, s. 5; 1987 (Reg. Sess., 1988), c. 1063, s. 3; 1991, c. 347, s. 1; c. 397, s. 1; 2003-434, 1st Ex. Sess., s. 14.)

§ 163-278.42. Distribution of campaign funds; legitimate expenses permitted.

(a) In a general election year in which a presidential election is held, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Political Parties Financing Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established by subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(b) In a general election year in which there is not a presidential election, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the Political Parties Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established in subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(c) In each year in which no general election is held, every State chairman of a political party shall disburse all funds received from the Political Parties Fund to that political party.

(d) The allocation of the remaining fifty percent (50%) of the funds under subsections (a) or (b) of this section shall be made by a committee composed of the State Chairman of that political party, the Treasurer of that party, the Congressional District Chairmen of that party, and a number of persons that shall not exceed the number of congressional districts in North Carolina appointed by the State Chairman of that party, and the State Chairman shall serve as Chairman of this committee. The allocation of funds shall be in the sole discretion of the committee, but must be for a purpose permitted by subsection (e) of this section and if allocated to a candidate, shall be disbursed by the State Chairman of that party only to the Treasurer of that candidate or committee appointed under Article 22A of this Chapter or under the Federal Election Campaign Act of 1971, Chapter 14 of Title 2, United States Code.

(e) A political party shall expend funds distributed from the Political Parties Fund or from the "Presidential Election Year Candidates Fund" only for legitimate campaign expenses. By way of illustration but not by way of limitation, the following are examples of legitimate campaign expenses:

- (1) Radio, television, newspaper, and billboard advertising for and on behalf of a political party or candidate;
- (2) Leaflets, fliers, buttons, and stickers;
- (3) Campaign staff salaries, provided each staff member is listed by name and by the amount paid as salary and the amount paid as campaign expense reimbursement;
- (4) Travel expenses, lodging and food for candidate and staff;
- (4a) Expenses to ensure compliance with federal and State campaign finance and reporting laws;
- (4b) Contributions to or expenses on behalf of candidates of that political party;
- (5) Party headquarters operations related to upcoming general elections, including the purchase, maintenance and programming of computers to provide lists of voters, party workers, officers, committee members and participants in party functions, patterns of voting and other data for use in general election campaigns and party activities and functions prior thereto, the establishment and updating computer file systems of voter registration lists, State, district, county and precinct officers and committee member lists, party clubs or organization lists, the organizing of voter registration, fund raising and get-out-the-vote programs at the county level when conducted by State party personnel, and the preparation of reports

required to be filed by State and federal laws and systems needed to prepare the same and keep records incident thereto.

(f) All moneys and funds previously designated by taxpayers being held by the North Carolina Secretary of Revenue and being held by the North Carolina State Treasurer which moneys and funds have not been disbursed or delivered to a political party as of June 16, 1978, when disbursed shall be allocated by the State Chairman of the political party as follows: sixty-two and one-half percent (62 1/2%) of such funds to the political party for legitimate general election campaign expenditures; thirty-seven and one-half percent (37 1/2%) to the eligible candidates as determined by the committee established under this Article.

(g) It shall be unlawful for any political party to use either directly or indirectly any part of funds distributed from the Political Parties Fund or the Presidential Election Year Candidates Fund of any political party for the support or assistance either directly or indirectly of any candidate in a primary election, for support or assistance relating to the selection of a candidate at a political convention or by the executive committee of a party, for the payment or repayment of any debt or obligation of whatsoever kind or nature incurred by any person, candidate or political committee in a primary election, the selection of a candidate at a political convention or by the executive committee of a party, or for the support, promotion or opposition of a national, State or local referendum, bond election or constitutional amendment. (1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, ss. 1-4; 1985 (Reg. Sess., 1986), c. 866; 1987 (Reg. Sess., 1988), c. 1063, s. 3; 1991, c. 397, s. 1, c. 636, s. 20(b); 1991 (Reg. Sess., 1992), c. 1032, s. 10B; 1993, c. 553, s. 70.)

§ 163-278.43. Annual report to State Board of Elections; suspension of disbursements; willful violations a misdemeanor; adoption of rules; reporting by candidates and political committees.

(a) The State chairman of each political party receiving funds from the Political Parties Fund or the Presidential Election Year Candidates Fund or both shall maintain a full and complete record of the party's receipts and any and all subsequent expenditures and disbursements thereof, and such shall be substantiated by any records, receipts, and information that the Executive Director of the State Board of Elections shall require. Such record shall be centrally located and shall be readily available at reasonable hours for public inspection.

(b) By December 31 of each year, the State chairman of each political party receiving funds from the Political Parties Fund or a Presidential Election Year Candidates Fund in the 12 preceding months shall file with the State Board of Elections an itemized statement reporting all receipts, expenditures and disbursements from the date of the last report and attached to such report shall be the verification of such chairman that all such funds received were expended in accordance with the provisions of this Article. If the Executive Secretary of the State Board of Elections determines and finds as a fact that any such funds were not disbursed or expended in accordance with this Article, he shall order such political party to reimburse the amount improperly expended or disbursed to the General Fund of the State and such political party shall not receive further disbursements from the Political Parties Fund or a Presidential Election Year Candidates Fund until such reimbursement has been accomplished in full. A copy of any such order shall be forwarded to the State Treasurer, which shall constitute notice to him to suspend further disbursements from the campaign fund.

(c) Repealed by Session Laws 1985, c. 259.

(c1) The State Board shall review each application and certify that the political party is eligible to receive the funds requested. The State Board shall establish rules for the administration and enforcement of this Article.

(c2) The treasurer of any political committee or candidate receiving any funds from the Political Parties Fund or a Presidential Election Year Candidates Fund through a political party shall report such receipts as contributions according to the method and timetable set forth in Article 22A of this Chapter. The treasurer shall report disbursements of such funds as expenditures or loans according to the method and timetable set forth in Article 22A of this Chapter. The reports shall be made to the proper board of elections according to Article 22A of this Chapter. There is no requirement that a candidate or a political committee other than

a political party shall maintain funds from the Political Parties Fund or a Presidential Election Year Candidates Fund in a separate account.

(d) Repealed by Session Laws 1985, c. 259. (1977, 2nd Sess., c. 1298, s. 2; 1979, c. 926, s. 1; 1985, c. 259; 1987 (Reg. Sess., 1988), c. 1063, s. 3; 1991, c. 347, s. 2; c. 397, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 10C.)

§ 163-278.44. *Crime; punishment.*

Any individual person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class 2 misdemeanor. (1977, 2nd Sess., c. 1298, s. 2; 1987, c. 565, s. 18; 1993, c. 539, s. 1119; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 163-278.45. *Definitions.*

The terms "candidate," "expend," "individual," "person," "political committee," and "treasurer" as used in this Article shall be as defined in G.S. 163-278.6. (1977, 2nd Sess., c. 1298, s. 2.)

Article 22D. The North Carolina Public Campaign Fund.

§ 163-278.61. Purpose of the North Carolina Public Campaign Fund.

The purpose of this Article is to ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, those effects being especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, this Article establishes the North Carolina Public Campaign Fund as an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for justice of the Supreme Court and judge of the Court of Appeals in elections to be held in 2004 and thereafter. (2002-158, s. 1; 2005-276, s. 23A.1(d).)

§ 163-278.62. Definitions.

The following definitions apply in this Article:

- (1) Board. – The State Board of Elections.
- (2) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a political committee authorized by the candidate for that candidate's election.
- (3) Certified candidate. – A candidate running for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.64(c).
- (4) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected. A distribution from the Fund pursuant to this Article is not a "contribution" and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or G.S. 163-278.19.
- (5) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund pursuant to this Article is not a "contribution" and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or 163-278.19.
- (5a) Electioneering communication. – As defined in G.S. 163-278.80 and G.S. 163-278.90, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day.
- (6) Expenditure. – Defined in G.S. 163-278.6.
- (7) Fund. – The North Carolina Public Campaign Fund established in G.S. 163-278.63.
- (8) Independent expenditure. – Defined in G.S. 163-278.6.
- (9) Maximum qualifying contributions. – An amount of qualifying contributions equal to 60 times the filing fee for candidacy for the office.
- (10) Minimum qualifying contributions. – An amount of qualifying contributions equal to 30 times the filing fee for candidacy for the office.
- (11) Nonparticipating candidate. – A candidate running for office who is not seeking to be certified under G.S. 163-278.64(c).
- (12) Office. – A position on the North Carolina Court of Appeals or North Carolina Supreme Court.
- (13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.64.
- (14) Political committee. – Defined in G.S. 163-278.6.
- (15) Qualifying contribution. – A contribution of not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00) in the form prescribed for noncash monetary contributions in G.S. 163-278.14(b) to the candidate or the candidate's committee that meets both of the following conditions:

- a. Made by an individual who is a registered voter in this State at the time of the submittal of the report specified in G.S. 163-278.64(c).
- b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.
- (16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary of the election year.
- (17) Referendum committee. – Defined in G.S. 163-278.6.
- (18) Trigger for matching funds. – The dollar amount at which matching funds are released for certified candidates. In the case of a primary, the trigger equals the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.65(b)(4). (2002-158, s. 1; 2005-276, s. 23A.1(d); 2007-510, ss. 1(c), 1(d).)

§ 163-278.63. North Carolina Public Campaign Fund established; sources of funding.

- (a) Establishment of Fund. – The North Carolina Public Campaign Fund is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of administering this Article, including production and distribution of the Voter Guide required by G.S. 163-278.69 and personnel and other costs incurred by the Board, including public education about the Fund, shall be paid from the Fund and not from the General Fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.
- (b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:
 - (1) Money from the North Carolina Candidates Financing Fund.
 - (2) Designations made to the Public Campaign Fund by individual taxpayers pursuant to G.S. 105-159.2.
 - (3) Repealed by Session Laws 2005-276, s. 23A.1(c), effective January 1, 2006.
 - (4) Public Campaign Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.
 - (5) Money ordered returned to the Public Campaign Fund in accordance with G.S. 163-278.70.
 - (6) Voluntary donations made directly to the Public Campaign Fund. Corporations, other business entities, labor unions, and professional associations may make donations to the Fund.
 - (7) Money collected from the fifty-dollar (\$50.00) surcharge on attorney membership fees in G.S. 84-34.
- (c) Determination of Fund Amount. – By October 1, 2003, and every two years thereafter, the Board, in conjunction with the Advisory Council for the Public Campaign Financing Fund, shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund for the next election. (2002-158, s. 1; 2005-276, s. 23A.1 (c), (d); 2006-192, s. 14.1.)

§ 163-278.64. Requirements for participation; certification of candidates.

- (a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the act as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and

expenditure limits set forth in subsection (d) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – Participating candidates who seek certification to receive campaign funds from the Fund shall first, during the qualifying period, obtain qualifying contributions from at least 350 registered voters in an aggregate sum that at least equals the amount of minimum qualifying contributions described in G.S. 163-278.62(10) but that does not exceed the amount of maximum qualifying contributions described in G.S. 163-278.62(9).

No payment, gift, anything of value, or the opportunity to win anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of demonstrated support by a participating candidate, the Board shall determine whether or not the candidate has complied with all the following requirements:

- (1) Signed and filed a declaration of intent to participate in this Article.
- (2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.
- (3) Filed a valid notice of candidacy pursuant to Article 25 of this Chapter.
- (4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of demonstrated support.

(d) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

- (1) Beginning January 1 of the year before the election and before the filing of a declaration of intent, a candidate for office may accept in contributions up to ten thousand dollars (\$10,000) from sources and in amounts permitted by Article 22A of this Chapter and may expend up to ten thousand dollars (\$10,000) for any campaign purpose. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Public Campaign Fund.
- (2) From the filing of a declaration of intent through the end of the qualifying period, a candidate may accept only qualifying contributions, contributions under ten dollars (\$10.00) from North Carolina voters, and personal and family contributions permitted under subdivision (4) of this subsection. The total contributions the candidate may accept during this period shall not exceed the maximum qualifying contributions for that candidate. In addition to these contributions, the candidate may only expend during this period the remaining money raised pursuant to subdivision (1) of this subsection and possible matching funds received pursuant to G.S. 163-278.67. Except for personal and family contributions permitted under subdivision (4) of this subsection, multiple contributions from the same contributor to the same candidate shall not exceed five hundred dollars (\$500.00).
- (3) After the qualifying period and through the date of the general election, the candidate shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any funds remaining from the qualifying period and possible matching funds.
- (4) During the qualifying period, the candidate may contribute up to one thousand dollars (\$1,000) of that candidate's own money to the campaign. Debt incurred by the candidate for a campaign expenditure shall count toward that limit. The candidate may accept in contributions one thousand dollars (\$1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister. Up to five hundred dollars (\$500.00) of a contribution from the candidate's family member may be treated as a qualifying contribution if it meets the requirements of G.S. 163-278.62(15)a. and b.
- (5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures. In establishing those guidelines, the Board shall differentiate expenditures that reasonably further a candidate's campaign from expenditures for personal use that

would be incurred in the absence of the candidacy. In establishing the guidelines, the Board shall review relevant provisions of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules adopted pursuant to it, and similar provisions in other states.

(6) Any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.70. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election, or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(e) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Public Campaign Fund at any time before the deadline set by the Board for the candidate's submission of information for the Voter Guide described in G.S. 163-278.69. After a timely revocation, that candidate may accept and expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund. (2002-158, s. 1; 2004-203, s. 60; 2005-276, s. 23A.1(d); 2005-430, ss. 4, 5; 2007-510, s. 1(c).)

§ 163-278.64A. Special participation provisions for candidates in vacancy elections.

(a) Participation Provisions Modified. – Candidates involved in elections described in G.S. 163-329 may participate in the Fund subject to the provisions of G.S. 163-278.64 as modified by this section. The Board shall adapt other provisions of this Article, including G.S. 163-278.67, to those elections.

(b) Qualifying. – The State Board of Elections shall designate a special qualifying period of no less than four weeks for these candidates, beginning at the close of the notice-of-candidacy filing period. To receive certification, a participating candidate shall raise at least 225 qualifying contributions, totaling at least 20 times the amount of the filing fee for the office, for a four-week qualifying period. If the State Board of Elections sets a longer qualifying period, then for each additional week that the qualifying period extends beyond four weeks, the minimum number of qualifying contributions required for certification shall increase by 25, and the minimum amount of the qualifying contributions shall increase by two times the filing fee. The minimum qualifying contributions shall not exceed the limit set by G.S. 163-278.64(b).

(c) Allocations. – Certified candidates shall receive one percent (1%) of the funding to which they would be eligible under G.S. 163-278.65 times the number of calendar days between the end of the special qualifying period and the day of the general election. That amount shall not exceed one hundred percent (100%) of the funding to which they would be eligible under G.S. 163-278.65. (2006-192, s. 10.)

§ 163-278.65. Distribution from the Fund.

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(b) Amount of Fund Distribution. – By August 1, 2003, and no less frequently than every two years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars (\$100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.67.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – Funds shall be distributed to a certified candidate for a position on the Court of Appeals in an amount equal to 125 times the candidate's filing fee as set forth in G.S. 163-107. Funds shall be distributed to a certified candidate for a position on the Supreme Court in an amount equal to 175 times the candidate's filing fee as set forth in G.S. 163-107.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding, and the candidate may raise additional money in the same manner as a noncertified candidate for the same office up to the unfunded amount of the candidate's eligible funding. (2002-158, s. 1; 2006-192, s. 11.)

§ 163-278.66. Reporting requirements.

(a) Reporting by Noncertified Candidates and Other Entities. – Any noncertified candidate with a certified opponent shall report total contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total expenditures or payments made to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or payments made for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After the initial 24-hour filing, the noncertified candidate or other reporting entity shall comply with an expedited reporting schedule. The schedule and forms for reports required by this subsection shall be supplied by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received, including all previously unreported qualifying contributions, all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund. In developing these procedures, the Board shall utilize existing campaign reporting procedures whenever practical.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information. (2002-158, s. 1; 2003-278, s. 2; 2006-192, s. 12; 2007-510, s. 1(a), (c); 2008-150, s. 10.2(a).)

§ 163-278.67. Matching funds.

(a) When Matching Funds Become Available. – When any report or group of reports shows that "funds in opposition to a certified candidate or in support of an opponent to that candidate" as described in this section, exceed the trigger for matching funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. "Funds in opposition to a certified candidate or in support of an opponent to that candidate" shall be equal to the sum of subdivisions (1) and (2) as follows:

(1) The greater of the following:

a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating candidate who is an opponent of a certified candidate. Where a certified candidate has more than one nonparticipating candidate as an opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount.

b. The funds distributed in accordance with G.S. 163-278.65(b) to a certified opponent of the certified candidate.

(2) The aggregate total of all expenditures and payments reported in accordance with G.S. 163-278.66(a) of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Matching Funds Before Date of Primary. – Total matching funds to a certified candidate before the date of the primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought. Matching funds are available to a certified candidate with an opponent in the primary or to a certified candidate who is clearly referred to in expenditures reportable under G.S. 163-278.99A made in opposition to that candidate.

(c) Limit on Matching Funds in Contested General Election. – Total matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

(c1) Expedited Distribution of Matching Funds. – When a candidate becomes entitled to any amount of matching funds under subsection (a) of this section, the Board shall authorize the issuance of that amount to the candidate as soon as practicable. The Department of Administration shall transfer that amount to the candidate as soon as practicable and in no event later than 12 hours after receiving notice from the Board that the candidate has become entitled to it. The Department of Administration shall develop a method of rapidly transferring funds to a candidate or otherwise fulfilling the requirements of this subsection in conjunction with the Board. The candidate shall return to the Board as soon as practicable any amount of the matching funds that the candidate has not spent at the date of the election or at the time the individual ceases to be a certified candidate, whichever occurs first.

(d) Determinations by Board. – In the case of electioneering communications, the Board shall determine which candidate, if any, is entitled to receive matching funds as a result of the communication. The Board shall issue matching funds based on the communication only if it ascertains that the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making its determination, the Board shall not consider evidence external to the communication itself of the intent of the sponsor or the effect of the communication. The Board shall notify each candidate it determines is entitled to receive matching funds based on those communications, the sponsor of those communications, and any candidate who is an opponent of the candidate it determines is entitled to the matching funds. The Board shall give the sponsor of the communication and any opposing candidate an adequate opportunity to rebut the determination of the Board. In considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and equal opportunity to be heard. The Board shall adopt procedures for implementing this subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and equality of opportunity to be heard on the rebuttal with the need to expedite the decision on awarding matching funds. The Board shall distribute the matching funds, if any, at the conclusion of its process.

(e) Proportional Measuring of Multicandidate Communications. – In calculating the amount of matching funds a certified candidate is eligible to receive under this section, the Board shall include the proportion of expenditures, obligations, or payments for multicandidate communications that pertain to the candidate. (2002-158, s. 1; 2007-510, s. 1(b); 2008-150, s. 7(b).)

(f) No Matching Funds for Certain Communications Involving All Candidates.—No matching funds are available under this section as a result of an expenditure that supports all candidates for the same office or opposes all candidates for the same office. No matching funds are available under this section as a result of an electioneering communication that the Board ascertains is susceptible of no reasonable interpretation other than as an appeal to vote for all candidates for the same office or to vote against all candidates for the same office.

§ 163-278.68. Enforcement and administration.

(a) Enforcement by the Board. – The Board, with the advice of the Advisory Council for the Public Campaign Fund, shall administer the provisions of this Article.

(b) Advisory Council for the Public Campaign Fund. – There is established under the Board the Advisory Council for the Public Campaign Fund to advise the Board on the rules, procedures, and opinions it adopts for the enforcement and administration of this Article and on the funding needs and operation of the Public Campaign Fund. The Advisory Council shall consist of five members to be appointed as follows:

(1) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(2) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the second greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(3) The Board shall name one member by unanimous vote of all members of the Board. If the Board cannot reach unanimity on the appointment of that member, the Advisory Council shall consist of the remaining members.

No individual shall be eligible to be a member of the Advisory Council who would be ineligible to serve on a county board of elections in accordance with G.S. 163-30. The initial members shall be appointed by December 1, 2002. Of the initial appointees, two are appointed for one-year terms, two are appointed for two-year terms, and one is appointed for a three-year term according to random lot. Thereafter, appointees are appointed to serve four-year terms. An individual may not serve more than two full terms, except that regardless of the time of appointment each term shall end on December 31. A member shall continue on the Advisory Council beyond the expired term until a successor is appointed. The appointed members receive the legislative per diem pursuant to G.S. 120-3.1. One of the Advisory Council members shall be elected by the members as Chair. A vacancy during an unexpired term shall be filled in the same manner as the regular appointment for that term, but a vacancy appointment is only for the unexpired portion of the term.

(c) Appeals. – The initial decision on an issue concerning qualification, certification, or distribution of funds under this Article shall be made by the Executive Director of the Board. The procedure for challenging that decision is as follows:

(1) An individual or entity aggrieved by a decision by the Executive Director of the Board may appeal to the full Board within three business days of the decision. The appeal shall be in writing and shall set forth the reasons for the appeal.

(2) Within five business days after an appeal is properly made, and after due notice is given to the parties, the Board shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the decision of the Executive Director was improper. The Board shall rule on the appeal within three business days after the completion of the hearing.

(d) Board to Adopt Rules and Issue Opinions. – The Board shall adopt rules and issue opinions to ensure effective administration of this Article. Such rules and opinions shall include, but not be limited to, procedures for obtaining qualifying contributions, certification of candidates, addressing circumstances involving special elections, vacancies, recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance with this Article. The Board shall adopt procedures for the distribution of matching money that further the purpose and avoid the subversion of G.S. 163-278.67. For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall establish procedures for qualification, certification, disbursement of Fund revenues, and return of unspent Fund revenues. The Board shall fulfill each of these duties in consultation with the Advisory Council on the Public Campaign Fund.

(e) Report to the Public. – The Advisory Council for the Public Campaign Fund shall issue a report by March 1, 2005, and every two years thereafter that evaluates and makes recommendations about the implementation of this Article and the feasibility of expanding its provisions to include other candidates for State office based on the experience of the Fund and the experience of similar programs in other states. The Advisory Council shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates receiving money from the Fund but that does not meet the definition of "independent expenditures." (2002-158, s. 1; 2005-276, s. 23A.1(d); 2006-192, s. 13; 2007-510, s. 1(c).)

§ 163-278.69. Voter education.

(a) **Judicial Voter Guide.** – The Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Public Campaign Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the general election.

(b) **Candidate Information.** – The Judicial Voter Guide shall include information concerning all candidates for the Supreme Court and the Court of Appeals, as provided by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

- (1) Place of residence.
- (2) Education.
- (3) Occupation.
- (4) Employer.
- (5) Date admitted to the bar.
- (6) Legal/judicial experience.
- (7) Candidate statement. Concerning that statement, the Board shall send to the candidates instructions as follows: "Your statement may include information such as your qualifications, your endorsements, your ratings, why you are seeking judicial office, why you would make a good judge, what distinguishes you from your opponent(s), your acceptance of spending and fund-raising limits to qualify to receive funds from the Public Campaign Fund, and any other information relevant to your candidacy. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language. The candidate shall have three days to resubmit the candidate statement if the Board rejects a portion of the statement.

The entire entry for a candidate shall be limited to 250 words.

(c) **Disclaimer.** – The Judicial Voter Guide shall contain the following statement: "Statements by candidates do not express or reflect the opinions of the State Board of Elections." (2002-158, s. 1; 2005-276, s. 23A.1(d); 2005-430, s. 6; 2006-192, s. 14; 2007-391, s. 4(a); 2008-187, s. 33(a).)

§ 163-278.70. Civil penalty.

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control. (2002-158, s. 1.)

§§ 163-278.71 through 163-278.79: Reserved for future codification purposes.

Article 22E. Electioneering Communications.

§ 163-278.80. Definitions.

As used in this Article, the following terms have the following definitions:

- (1) The term "disclosure date" means either of the following:
 - a. The first date during any calendar year when an electioneering communication is aired after an entity has incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
 - b. Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.
- (2) The term "electioneering communication" means any broadcast, cable, or satellite communication that has all the following characteristics:
 - a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
 - b. Is aired within one of the following time periods:
 1. 60 days before a general or special election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate.
 - c. Is targeted to the relevant electorate.
- (3) The term "electioneering communication" does not include any of the following:
 - a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.
 - b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
 - d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
 - e. A communication that meets all of the following criteria:
 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 3. Proposes a commercial transaction.
- (4) The term "prohibited source" means any corporation, insurance company, labor union, or professional association. The term "prohibited source" does not include an entity that meets all the criteria set forth in G.S. 163-278.19(f).
- (5) The term "targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which can be received by 50,000 or more individuals in the State in the case of a candidacy for statewide office and 7,500 or more individuals in the district in the case of a candidacy for General Assembly.
- (6) The term "501(c)(4) organization" means either of the following:
 - a. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.

b. An organization that has submitted an application to the Internal Revenue Service for determination of its status as an organization described in sub-subdivision a. of this subdivision.

(7) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article. (2004-125, s. 1; 2006-182, s. 1(a).)

§ 163-278.81. Disclosure of Electioneering Communications.

(a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals that incurs an expense for the direct costs of producing or airing electioneering communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.

(b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:

(1) The identification of the entity incurring the expense, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity incurring the expense.

(2) The principal place of business of the entity incurring the expense if the entity is not an individual.

(3) The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the expense was incurred.

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

(5) The names and addresses of all entities that provided funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning on the first day of the preceding calendar year and ending on the disclosure date to a segregated bank account that consists of funds provided solely by entities other than prohibited sources. Nothing in this subdivision is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications. If the provider is an individual, the statement shall also contain the principal occupation of the provider. The "principal occupation of the provider" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(6) Repealed by Session Laws 2005-430, s. 9(a), effective December 1, 2005, and applicable to all contributions and expenditures made or accepted on or after that date. (2004-125, s. 1; 2005-430, s. 9(a); 2006-182, s. 2(a).)

§ 163-278.82. Prohibition of corporate and labor disbursements for electioneering communications.

(a) Prohibition. – No prohibited source may make any disbursement for the costs of producing or airing any electioneering communication. No individual, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986), which has received any funds or anything of value whatsoever from a prohibited source may make any disbursement for the costs of producing or airing any electioneering communication, unless that individual, committee, association, or other organization or group of individuals maintains a segregated bank account that consists of funds provided solely by entities other than prohibited sources. For purposes of this section, the term "funds or anything of value whatsoever" shall not include monies paid to an individual, committee, association, or other organization or group of individuals for services rendered or other payment of debt owed. It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the prohibitions on disbursements for

electioneering communications from prohibited sources or the reporting requirements contained in this Article.

(b) Direct or Indirect Disbursement. – An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication.

(c) Segregated Fund. – Any disbursement for an electioneering communication made from an account must be made from a segregated account into which no funds from a prohibited source have been directly or indirectly introduced.

(d) Limitation on Prohibition. – The prohibition in this section shall not apply unless the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. (2004-125, s. 1; 2005-430, s. 9(b); 2006-182, s. 3(a); 2008-150, s. 10.3(a).)

§ 163-278.83. Penalties.

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.82. (2004-125, s. 1; 2006-259, s. 29(a).)

§ 163-278.84. Determination of electioneering communication.

(a) Any individual, committee, association, or any other organization or group of individuals that produces a communication to be aired to the relevant electorate in the time periods under G.S. 163-278.80(2)b. may, but is not required to, ask the State Board for a determination as to whether or not that communication is an electioneering communication prior to the airing of that communication.

(b) The State Board shall establish a process for determination as to whether a communication is an electioneering communication prior to the airing of that communication when it is requested under subsection (a) of this section. The responsibility for the determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall include an opportunity for immediate appeal to the State Board of the determination by the Executive Director.

Article 22F. Mass Mailings and Telephone Banks: Electioneering Communications.

§ 163-278.90. Definitions.

As used in this Article, the following terms have the following definitions:

- (1) The term "disclosure date" means either of the following:
 - a. The first date during any calendar year when an electioneering communication is transmitted after an entity has incurred expenses for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
 - b. Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.
- (2) The term "electioneering communication" means any mass mailing or telephone bank that has all the following characteristics:
 - a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
 - b. Is transmitted within one of the following time periods:
 1. 60 days before a general or special an election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate.
 - c. Is targeted to the relevant electorate.
- (3) The term "electioneering communication" does not include any of the following:
 - a. A communication appearing in a news story, commentary, or editorial distributed through any newspaper or periodical, unless that publication is owned or controlled by any political party, political committee, or candidate.
 - b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
 - d. A communication that is distributed by a corporation solely to its shareholders or employees, or by a labor union or professional association solely to its members.
 - e. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
 - f. A communication that meets all of the following criteria:
 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 3. Proposes a commercial transaction.
- (4) The term "mass mailing" means any mailing by United States mail or facsimile. Part 1A of Article 22A of this Chapter has its own internal definition of "mass mailing" under the definition of "print media," and that definition does not apply in this Article.
- (5) The term "prohibited source" means any corporation, insurance company, labor union, or professional association. The term "prohibited source" does not include an entity that meets all the criteria set forth in G.S. 163-278.19(f).

- (5a) The term "race" means a ballot item, as defined in G.S. 163-165(2), in which the voters are to choose between or among candidates.
- (6) The term "targeted to the relevant electorate" means:
- a. With respect to a statewide race:
 1. Transmitting, by mail or facsimile to a cumulative total of 50,000 or more addresses in the State, items identifying one or more candidates in the same race within any 30-day period; or
 2. Making a cumulative total of 50,000 or more telephone calls in the State identifying one or more candidates in the same race within any 30-day period.
 - b. With respect to a race for the General Assembly:
 1. Transmitting, by mail or facsimile to a cumulative total of 2,500 or more addresses in the district, items identifying one or more candidates in the same race within any 30-day period; or
 2. Making a cumulative total of 2,500 or more telephone calls in the district identifying one or more candidates in the same race within any 30-day period.
- (7) The term "telephone bank" means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.
- (8) The term "501(c)(4) organization" means either of the following:
- a. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.
 - b. An organization that has submitted an application to the Internal Revenue Service for determination of its status as an organization described in sub-subdivision a. of this subdivision.
- (9) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article. (2004-125, s. 2; 2006-182, s. 1(b).)

§ 163-278.91. Disclosure of Electioneering Communications.

- (a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals who incurs an expense for the direct costs of producing or transmitting electioneering communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.
- (b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:
- (1) The identification of the entity incurring the expense, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity incurring the expense.
 - (2) The principal place of business of the entity incurring the expense if the entity is not an individual.
 - (3) The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the expense was incurred.
 - (4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.
 - (5) The names and addresses of all entities that provided funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning on the first day of the preceding calendar year and ending on the disclosure date to a segregated bank account that consists of funds provided solely by entities other than prohibited sources. Nothing in this subdivision is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications. If the provider is an individual, the statement shall also contain the principal occupation of the provider. The

"principal occupation of the provider" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(6) Repealed by Session Laws 2005-430, s. 9(c), effective December 1, 2005, and applicable to all contributions and expenditures made or accepted on or after that date. (2004-125, s. 2; 2005-430, s. 9(c); 2006-182, s. 2(b).)

§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering communications.

(a) Prohibition. – No prohibited source may make any disbursement for the costs of producing or transmitting any electioneering communication. No individual, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986), which has received any funds or anything of value whatsoever from a prohibited source may make any disbursement for the costs of producing or transmitting any electioneering communication, unless that individual, committee, association, or other organization or group of individuals maintains a segregated bank account that consists of funds provided solely by entities other than prohibited sources. For purposes of this section, the term "funds or anything of value whatsoever" shall not include monies paid to an individual, committee, association, or other organization or group of individuals for services rendered or other payment of debt owed. It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the prohibitions on disbursements for electioneering communications from prohibited sources or the reporting requirements contained in this Article.

(b) Direct or Indirect Disbursement. – An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication.

(c) Segregated Fund. – Any disbursement for an electioneering communication made from an account must be made from a segregated account into which no funds from a prohibited source have been directly or indirectly introduced.

(d) Limitation on Prohibition. – The prohibition in this section shall not apply unless the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. (2004-125, s. 2; 2005-430, s. 9(d); 2006-182, s. 3(b); 2008-150, s. 10.3(b).)

§ 163-278.93. Penalties.

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.92. (2004-125, s. 2; 2006-259, s. 29(b).)

§ 163-278.94. Determination of electioneering communication.

a) Any individual, committee, association, or any other organization or group of individuals that produces a communication to be distributed to the relevant electorate in the time periods under G.S. 163-278.90(2)b. may, but is not required to, ask the State Board for a determination as to whether or not that communication is an electioneering communication prior to the airing of that communication.

(b) The State Board shall establish a process for determination as to whether a communication is an electioneering communication prior to the airing of that communication when it is requested under subsection (a) of this section. The responsibility for the

determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall include an opportunity for immediate appeal to the State Board of the determination by the Executive Director.

Article 22G. Candidate-Specific Communications.

§ 163-278.100. Definitions.

As used in this Article, the following terms have the following definitions:

(1) The term "candidate-specific communication" means any broadcast, cable, or satellite communication that has all the following characteristics:

- a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
- b. Is aired in an even-numbered year after the final date on which a Notice of Candidacy can be filed for the office, pursuant to G.S. 163-106(c) or G.S. 163-323, and through the day on which the general election is conducted, excluding the time period set in the definition for "electioneering communication" in G.S. 163-278.80(2)b.
- c. Is targeted to the relevant electorate.

(2) The term "candidate-specific communication" does not include any of the following:

- a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
- c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
- d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
- e. An electioneering communication as defined in Article 22E of this Chapter.
- f. A communication that meets all of the following criteria:
 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 3. Proposes a commercial transaction.

(3) The term "disclosure date" means either of the following:

- a. The first date during any calendar year when a candidate-specific communication is aired after an entity has incurred expenses for the direct costs of producing or airing candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000).
- b. Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or airing candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.

(4) The term "targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which can be received by 50,000 or more individuals in the State in the case of a candidacy for statewide office and 7,500 or more individuals in the district in the case of a candidacy for General Assembly.

(5) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article. (2006-233, s. 1; 2006-259, s. 29(e).)

§ 163-278.101. Disclosure of candidate-specific communications.

(a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals that incurs an expense for the direct costs of producing or airing candidate-specific communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.

(b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:

(1) The identification of the entity incurring the expense, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity incurring the expense.

(2) The principal place of business of the entity incurring the expense if the entity is not an individual.

(3) The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the expense was incurred.

(4) The candidates in the candidate-specific communications that are identified or are to be identified.

(5) The identity of every provider of funds or anything of value whatsoever to the entity, providing an amount in excess of one thousand dollars (\$1,000). If the provider is an individual, the statement shall also contain the principal occupation of the provider. The "principal occupation of the provider" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(c) Creating Multiple Organizations. – It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the reporting requirements contained in this Article. (2006-233, s. 1.)

§ 163-278.102. Penalties.

The State Board of Elections has the same authority to compel from any individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article. (2006-233, s. 1; 2006-259, s. 29(c).)

§ 163-278.103. Determination of candidate-specific communication.

a) Any individual, committee, association, or any other organization or group of individuals that produces a communication to be aired to the relevant electorate in the time periods under G.S. 163-278.100(1)b. may, but is not required to, ask the State Board for a determination as to whether or not that communication is a candidate-specific communication prior to the airing of that communication.

(b) The State Board shall establish a process for determination as to whether a communication is a candidate-specific communication prior to the airing of that communication when it is requested under subsection (a) of this section. The responsibility for the determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall include an opportunity for immediate appeal to the State Board of the determination by the Executive Director.

Article 22H. Mass Mailings and Telephone Banks: Candidate-Specific Communications.

§ 163-278.110. Definitions.

As used in this Article, the following terms have the following definitions:

(1) The term "candidate-specific communication" means any mass mailing or telephone bank that has all the following characteristics:

- a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
- b. Is transmitted in an even-numbered year after the final date on which a Notice of Candidacy can be filed for the office, pursuant to G.S. 163-106(c) or G.S. 163-323, and through the day on which the general election is conducted, excluding the time period set in the definition for "electioneering communication" in G.S. 163-278.90(2)b.
- c. Is targeted to the relevant electorate.

(2) The term "candidate-specific communication" does not include any of the following:

- a. A communication appearing in a news story, commentary, or editorial distributed through any newspaper or periodical, unless that publication is owned or controlled by any political party, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
- c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
- d. A communication that is distributed by a corporation solely to its shareholders or employees or by a labor union or professional association solely to its members.
- e. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
- f. An electioneering communication as defined in Article 22F of this Chapter.
- g. A public opinion poll conducted by a newspaper, periodical, or other news gathering organization.
- h. A communication that meets all of the following criteria:
 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 3. Proposes a commercial transaction.

(3) The term "disclosure date" means either of the following:

- a. The first date during any calendar year when a candidate-specific communication is transmitted after an entity has incurred expenses for the direct costs of producing or transmitting candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000).
- b. Any other date during that calendar year by which an entity has incurred expenses for the direct costs of producing or transmitting candidate-specific communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.

(4) The term "mass mailing" means any mailing by United States mail or facsimile. Part 1A of Article 22A of this Chapter has its own internal definition of "mass mailing" under the definition of "print media," and that definition does not apply in this Article.

(5) The term "race" means a ballot item, as defined in G.S. 163-165(2), in which the voters are to choose between or among candidates.

(6) The term "targeted to the relevant electorate" means:

a. With respect to a statewide race:

1. Transmitting, by mail or facsimile to a cumulative total of 50,000 or more addresses in the State, items identifying one or more candidates in the same race within any 30-day period; or

2. Making a cumulative total of 50,000 or more telephone calls in the State identifying one or more candidates in the same race within any 30-day period.

b. With respect to a race for the General Assembly:

1. Transmitting, by mail or facsimile to a cumulative total of 2,500 or more addresses in the district, items identifying one or more candidates in the same race within any 30-day period; or

2. Making a cumulative total of 2,500 or more telephone calls in the district identifying one or more candidates in the same race within any 30-day period.

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

(8) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article. (2006-233, s. 2; 2007-391, s. 31; 2007-510, s. 2; 2008-187, s. 33(a).)

§ 163-278.111. Disclosure of candidate-specific communications.

(a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals that incurs an expense for the direct costs of producing or transmitting candidate-specific communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.

(b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:

(1) The identification of the entity incurring the expense, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity incurring the expense.

(2) The principal place of business of the entity incurring the expense if the entity is not an individual.

(3) The amount of each expense incurred of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the expense was incurred.

(4) The candidates in the candidate-specific communications that are identified or are to be identified.

(5) The identity of every provider of funds or anything of value whatsoever to the entity, providing an amount in excess of one thousand dollars (\$1,000). If the provider is an individual, the statement shall also contain the principal occupation of the provider. The "principal occupation of the provider" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(c) Creating Multiple Organizations. – It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the reporting requirements contained in this Article. (2006-233, s. 2.)

§ 163-278.112. Penalties.

The State Board of Elections has the same authority to compel from any individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article. (2006-233, s. 2; 2006-259, s. 29(d).)

§ 163-278.113. Determination of candidate-specific communication.

a) Any individual, committee, association, or any other organization or group of individuals that produces a communication to be distributed to the relevant electorate in the time periods under G.S. 163-278.110(1)b. may, but is not required to, ask the State Board for a determination as to whether or not that communication is a candidate-specific communication prior to the airing of that communication.

(b) The State Board shall establish a process for determination as to whether a communication is a candidate-specific communication prior to the airing of that communication when it is requested under subsection (a) of this section. The responsibility for the determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall include an opportunity for immediate appeal to the State Board of the determination by the Executive Director.

Article 22J. The Voter-Owned Elections Act.

§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance in elections to be held in 2008 and thereafter. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.96. Definitions.

The following definitions apply in this Article:

- (1) Board. – The State Board of Elections.
- (2) Campaign-related expenditure. – An expenditure that benefits the candidate's current campaign in accordance with guidelines established by the Board.
- (3) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a "candidate campaign committee" as defined in G.S. 163-278.38Z(3).
- (4) Certified candidate. – A candidate for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.98(c).
- (5) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected.
- (6) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund pursuant to this Article is not a "contribution" and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or G.S. 163-278.19. Instead of being subject to G.S. 163-278.16B, distributions are subject to the guidelines issued by the Board pursuant to G.S. 163-278.98(e)(5).
- (6a) Electioneering communication. – As defined in G.S. 163-278.80 and G.S. 163-278.90, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day.
- (7) Expenditure. – Defined in G.S. 163-278.6.
- (8) Fund. – The North Carolina Voter-Owned Elections Fund established in G.S. 163-278.97.
- (9) Independent expenditure. – Defined in G.S. 163-278.6.
- (10) Maximum qualifying contributions. – If the candidate has an uncontested primary, an amount equal to 100 times the filing fee for the office sought. If the candidate has a contested primary, 200 times the filing fee for the office sought.
- (11) Nonparticipating candidate. – A candidate for office who is not seeking to be certified under G.S. 163-278.98(c).
- (12) Office. – The Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance.

- (13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.98(a).
- (14) Political committee. – Defined in G.S. 163-278.6.
- (15) Qualifying contribution. – A contribution of not less than ten dollars (\$10.00) and not more than two hundred dollars (\$200.00) in the form of a check or money order to the candidate that meets both of the following conditions:
- a. Made by any registered voter in this State.
 - b. Made only during the qualifying period and obtained with the approval of the candidate or candidate's committee.
- (16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary.
- (17) Trigger for matching funds. – The dollar amount at which matching funds are released under G.S. 163-278.99B for certified candidates. In the case of a contested primary, the trigger equals the maximum qualifying contributions for the candidate. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.99(b)(4). (2007-484, ss. 43.8(a), (c); 2007-540, s. 1.)

§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.

- (a) Establishment of Fund. – The North Carolina Voter-Owned Elections Fund is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.
- (b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:
- (1) Unspent Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.
 - (2) Money ordered returned to the Fund in accordance with G.S. 163-278.99D.
 - (3) Money paid to the Fund equal to excess contributions as provided in G.S. 163-278.98(e)(1).
 - (4) Voluntary donations made directly to the Fund.
 - (5) Appropriations from the General Fund.
- (c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every four years thereafter, the Board, in conjunction with the Advisory Council established under G.S. 163-278.68(b), shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund during the next election cycle and make recommendations about the feasibility of expanding its provisions to include other candidates for State office based on the experience of this Article and the experience of similar programs in North Carolina and other states. The Board shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates but is not reached by regulation. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.98. Requirements for participation.

- (a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the program established by this Article as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, campaign-related expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limits set forth in subsection (e) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – In order to be certified, participating candidates must obtain qualifying contributions from at least 750 registered voters in this State. The qualifying contributions shall be equal to at least 25 times the amount of the filing fee for the office. No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of qualifying contributions by a participating candidate, the Board shall determine whether or not the candidate has:

(1) Filed a completed declaration of intent to participate in this Article.

(2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.

(3) Filed a notice of candidacy with the State Board of Elections as a candidate for the office.

(4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of qualifying contributions.

(d) Final Report for Qualifying Contributions. – No later than five business days after the end of the qualifying period, all participating candidates shall submit a report to the Board of all previously unreported qualifying contributions, in accordance with procedures developed by the Board. Within seven business days after submittal of the final report, the Board shall determine, through a random audit or other means it adopts, whether the contributions abide by the definition of qualifying contributions, whether they must be returned to the donor, and whether they exceed the maximum amount of qualifying contributions.

(e) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning August 1 of the year before the election and before filing a declaration of intent, a candidate shall limit campaign-related expenditures to twenty thousand dollars (\$20,000) and shall not accept more than twenty thousand dollars (\$20,000) from sources and in amounts permitted by Article 22A of this Chapter. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Fund. However, the acceptance of contributions in excess of that twenty thousand dollar (\$20,000) limit does not render the candidate ineligible if the candidate pays to the Board an amount equal to the contributions accepted by the candidate in excess of that limit. The Board shall deposit all such payments into the Fund.

(2) From the filing of a declaration of intent through the end of the qualifying period, a candidate may accept only qualifying contributions, contributions under ten dollars (\$10.00) from North Carolina voters, in-kind party contributions as permitted in subdivision (4) of this subsection, and personal and family contributions permitted under subdivision (4a) of this subsection. The total contributions the candidate may accept during this period shall not exceed the maximum qualifying contributions for that candidate. In addition to these contributions, the candidate may only expend during this period the remaining money raised pursuant to subdivision (1) of this subsection and possible matching funds received pursuant to G.S. 163-278.99B. If the candidate has any remaining money that was raised as contributions before August 1 of the year before the election, the candidate may not expend that money after filing the declaration of intent, except for purposes permitted under subdivision (2), (3), (6), (7), or (8) of G.S. 163-278.16B(a).

(3) After the qualifying period and through the date of the general election, the candidate shall cease campaign-related fund-raising activities and shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.99(b) plus any funds remaining from the qualifying period and possible matching funds.

(4) In addition to the amounts above, a candidate may accept in-kind contributions from political party executive committees, up to an aggregate value of thirty thousand dollars (\$30,000) for the election cycle.

(4a) During the qualifying period, the candidate may contribute up to one thousand dollars (\$1,000) of that candidate's own money to the campaign. Debt incurred by the candidate for a campaign expenditure shall count toward that limit. The candidate may accept in

contributions one thousand dollars (\$1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister.

(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures.

(6) Except as provided in subdivision (1) of this subsection, any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.99D. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(f) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Fund at any time. After a revocation, that candidate may accept and expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.99. Distribution from the Fund.

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section as follows:

(1) One-third of the amount within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(2) The remainder of the amount on August 1 before the general election.

(b) Amount of Fund Distribution. – By August 1, 2011, and no less frequently than every four years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars (\$100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.99B.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – The amount of funds to be distributed to a candidate is the average amount of campaign-related expenditures made by all candidates who won the immediately preceding three general elections for that office, but not less than three hundred thousand dollars (\$300,000). For purposes of this subsection, "campaign-related expenditures" does not include loan repayments and contributions to a candidate, political committee, or political party.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding, and the candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate's eligible funding. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.99A. Reporting requirements.

(a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating candidate with a certified opponent shall report total contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S.

163-278.96(17). Any entity making independent expenditures in support of or in opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or paying for electioneering communications referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After the initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply with an expedited reporting schedule. The schedule and forms for reports required by this subsection shall [be] supplied by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received and all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. Upon the filing of a final report for any losing primary election, special election, or general election, each candidate who has revenues from the Fund remaining unspent shall return those revenues to the Board. In developing these procedures, the Board shall utilize existing campaign reporting procedures wherever practicable.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information. (2007-484, s. 43.8(c); 2007-540, s. 1; 2008-150, s. 10.2(b).)

§ 163-278.99B. Matching funds.

(a) When Matching Funds Become Available. – When any report or group of reports shows that "funds in opposition to a certified candidate or in support of an opponent to that candidate" as described in this section exceed the trigger for matching funds as defined in G.S. 163-278.96(17), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. "Funds in opposition to a certified candidate or in support of an opponent to that candidate" shall be equal to the sum of subdivisions (1) and (2) as follows:

(1) The greater of the following:

a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating opponent of a certified candidate. Where a certified candidate has more than one nonparticipating opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount.

b. The funds distributed in accordance with G.S. 163-278.99(b) to a certified opponent of the certified candidate.

(2) The aggregate total of all expenditures and payments reported in accordance with G.S. 163-278.99A(a) of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Matching Funds in Contested Primary. – Total matching funds to a certified candidate in a contested primary shall be limited to an amount equal to the maximum qualifying contributions for a candidate with a contested primary.

(c) Limit on Matching Funds in Contested General Election. – Total matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.99(b)(4).

(d) Determinations by Board. – In the case of electioneering communications, the Board shall determine which candidate, if any, is entitled to receive matching funds as a result of the communication. The Board shall issue matching funds based on the communication only if it ascertains that the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making its determination, the Board shall not consider evidence external to the communication itself of the intent of the sponsor or the effect of the communication. The Board shall notify each candidate it determines is entitled to receive matching funds based on those communications, the sponsor of those communications, and any candidate who is an opponent of the candidate it determines is entitled to the matching funds. The Board shall give the sponsor of the communication and any opposing candidate an adequate opportunity to rebut the

determination of the Board. In considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and equal opportunity to be heard. The Board shall adopt procedures for implementing this subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and equality of opportunity to be heard on the rebuttal with the need to expedite the decision on awarding matching funds. The Board shall distribute the matching funds, if any, at the conclusion of its process.

(e) Proportional Measuring of Multicandidate Communications. – In calculating the amount of matching funds a certified candidate is eligible to receive under this section, the Board shall include the proportion of expenditures, obligations, or payments for multicandidate communications that pertains to the candidate. (2007-484, ss. 43.8(b)-(d); 2007-540, s. 1.)

§ 163-278.99C. Unaffiliated and new-party candidates.

Unaffiliated candidates certified pursuant to G.S. 163-122 and new-party candidates certified pursuant to G.S. 163-98 shall be eligible for revenues from the Fund in the same amounts and at the same time as specified in G.S. 163-278.99. For unaffiliated candidates and new-party candidates not certified to appear on the ballot by noon on the deadline set in G.S. 163-106(c) for candidate filing in the election year, the deadline for seeking certification to receive revenue from the Fund is noon on the first business day of July of the election year. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.99D. Enforcement by the Board; civil penalty.

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control. (2007-484, s. 43.8(c); 2007-540, s. 1.)

§ 163-278.99E. Voter education.

(a) Voter Guide. – The Board shall publish a Voter Guide that explains the functions of office as defined in G.S. 163-278.96(12) and the laws concerning the election of the Council of State, the purpose and function of the Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The State Board of Elections shall maintain a list of the addresses from which mailed Voter Guides are returned as undeliverable. That list shall be available for public inspection. The distribution shall occur no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the general election.

(b) Candidate Information. – The Voter Guide shall include information concerning all candidates for office as defined in G.S. 163-278.96(12), as provided by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

- (1) Place of residence.
- (2) Education.
- (3) Occupation.
- (4) Employer.
- (5) Previous elective offices held.

(6) Endorsements, limited to 50 words. Concerning endorsements, the Board shall send to the candidates instructions as follows: "In order to have an endorsement published, you must provide written confirmation to the Board from the endorsing person or organization that you received that person's or organization's endorsement."

(7) Candidate statement, limited to 150 words. Concerning that statement, the Board shall send to the candidates instructions as follows: "Your statement may include information such as your qualifications, your endorsements, why you would make a good elected official, what distinguishes you from your opponent(s), and any other information relevant to your candidacy. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language. The candidate shall have three days to resubmit the candidate statement if the Board rejects a portion of the statement."

(c) Disclaimer. – The Voter Guide shall contain the following statement: "Statements by candidates do not express or reflect the opinions of the State Board of Elections."

(d) Relationship to the Judicial Voter Guide. – The Board may publish the Voter Guide in conjunction with the Judicial Voter Guide described in G.S. 163-278.69. (2007-391, s. 4(b); 2007-484, s. 43.8(c); 2007-540, s. 1; 2008-187, s. 33(a).)

Article 22M. Legal Expense Funds.

§ 163-278.300. Definitions.

As used in this Article, the following terms mean:

- (1) Board. The State Board of Elections.
- (2) Legal expense donation. –A legal expense donation means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, subscription of money, or anything of value whatsoever, and any contract, agreement, or other obligation to make a contribution to a legal expense fund for a permitted use as provided in G.S. 163-278.320. The term "legal expense donation" does not include either of the following:
 - a. The provision of legal services to an elected officer by the State or any of its political subdivisions when those services are authorized or required by law or
 - b. The provision of free or pro bono legal advice or legal services, provided that any costs incurred or expenses advanced for which clients are liable under other provisions of law shall be deemed legal expense donations.
- (3) Elected officer. – Any individual serving in or seeking a public office. An individual is seeking a public office when that individual has filed any notice, petition, or other document required by law or local act as a condition of election to public office. An individual continues to be an elected officer for purposes of this Article as long as a legal action commenced while the individual was an elected officer continues. If a legal action is commenced after an individual ceases to serve in or seek public office but the legal action concerns subject matter in the individual's official capacity as an elected officer, for purposes of this Article, that individual is an elected officer as long as that legal action continues.
- (4) Expenditure. – An expenditure means any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge, subscription of money, anything of value whatsoever, and any contract, agreement, promise, or other obligation to make an expenditure, by a legal defense fund for a permitted use as provided in G.S. 163-278.320. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a legal expense donation.
- (5) Legal action. – A formal dispute in a judicial, legislative, or administrative forum, including but not limited to, a civil or criminal action filed in a court, a complaint or protest filed with a board of elections, an election contest filed under Article 3 of Chapter 120 of the General Statutes or G.S. 163-182.13A, or a complaint filed with the State Ethics Commission or Legislative Ethics Committee. The term "legal action" also includes investigations made or conducted before the commencement of any formal proceedings. The term "legal action" does not include the election itself or the campaign for election.
- (6) Legal expense fund. – Any collection of money for the purpose of funding a legal action, or a potential legal action, taken by or against an elected officer in that elected officer's official capacity.
- (7) Official capacity. – Related to or resulting from the campaign for public office or related to or resulting from holding public office. "Official capacity" is not limited to "scope and course of employment" as used in G.S. 143-300.3.
- (8) Public office. – As defined in G.S. 163-278.6.
- (9) Treasurer. – An individual appointed by an elected officer or other individual or group of individuals collecting money for a legal expense fund. (2007-349, s. 1.)

§ 163-278.301. Creation of legal expense funds.

(a) An elected officer, or another individual or group of individuals on the elected officer's behalf, shall create a legal expense fund if given a legal expense donation, other than from that elected officer's self, spouse, parents, brothers, or sisters, for any of the following purposes:

- (1) To fund an existing legal action taken by or against the elected officer in that elected officer's official capacity.
- (2) To fund a potential legal action taken by or against an elected officer in that elected officer's official capacity.
- (b) This section shall not apply to any payment to the State or any of its political subdivisions.
- (c) The legal expense fund shall comply with all provisions of this Article.
- (d) If an elected officer funds legal actions entirely from that elected officer's own legal expense donations or those of the elected officer's spouse, parents, brothers, or sisters, that elected officer is not required to create a legal expense fund. If a legal expense fund accepts legal expense donations as described in subsection (a) of this section, that legal expense fund shall report the elected officer's own legal expense donations and those of those family members along with the other legal expense donations in accordance with G.S. 163-278.310.
- (e) No more than one legal expense fund shall be created by or for an elected officer for the same legal action. Legal actions arising out of the same set of transactions and occurrences are deemed the same legal action for purposes of this subsection. A legal expense fund created for one legal action or potential legal action may be kept open by or on behalf of the elected officer for subsequent legal actions or potential legal actions.
- (f) Contractual arrangements, including liability insurance, or commercial relationships or arrangements made in the normal course of business if not made for the purpose of lobbying, are not "legal expense donations" for purposes of this Article. Use of such contractual arrangements to fund legal actions does not by itself require the elected officer to create a legal expense fund. If a legal expense fund has been created pursuant to subsection (a) of this section, such contractual arrangements shall be reported as expenditures.
- (g) A violation of this Article shall be punishable as a Class 1 misdemeanor. (2007-349, s. 1.)

§ 163-278.302: Reserved for future codification purposes.

§ 163-278.303: Reserved for future codification purposes.

§ 163-278.304: Reserved for future codification purposes.

§ 163-278.305: Reserved for future codification purposes.

§ 163-278.306. Treasurer.

(a) Each legal expense fund shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board.

(b) A legal expense fund may remove its treasurer. In case of the death, resignation, or removal of its treasurer, the legal expense fund shall appoint a successor within 10 calendar days of the vacancy and certify the name and address of the successor in the same manner provided in the case of an original appointment.

(c) Every treasurer of a legal expense fund shall receive training from the Board as to the duties of the office within three months of appointment and at least once every four years thereafter. (2007-349, s. 1.)

§ 163-278.307. Detailed accounts to be kept by treasurer.

(a) The treasurer of each legal expense fund shall keep detailed accounts, current within seven calendar days after the date of receiving a legal expense donation or making an expenditure, of all legal expense donations received and all expenditures made by or on behalf of the legal expense fund.

(b) Accounts kept by the treasurer of a legal expense fund or the accounts of a treasurer or legal expense fund at any bank or other depository may be inspected by a

member, designee, agent, attorney, or employee of the Board who is making an investigation pursuant to G.S. 163-278.22.

(c) For purposes of this section, "detailed accounts" shall mean at least all information required to be included in the quarterly report required under this Article.

(d) When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article, any report of the legal expense shall be considered in compliance with this Article and shall not be the basis for criminal prosecution or the imposition of civil penalties. The State Board of Elections shall adopt rules to implement this subsection. (2007-349, s. 1.)

§ 163-278.308. Reports filed with Board.

(a) The treasurer of each legal expense fund shall file with the Board the following reports:

(1) Organizational report. – The report required under G.S. 163-278.309.

(2) Quarterly report. – The report required under G.S. 163-278.310.

(b) Any report or attachment required by this Article must be filed under certification of the treasurer as true and correct to the best of the knowledge of that officer.

(c) The organizational report shall be filed within 10 calendar days of the creation of the legal expense fund. All quarterly reports shall be filed with the Board no later than 10 business days after the end of each calendar quarter.

(d) Treasurers shall electronically file each report required by this section that shows a cumulative total for the quarter in excess of five thousand dollars (\$5,000) in legal expense donations or expenditures, according to rules adopted by the Board. The Board shall provide the software necessary to the treasurer to file the required electronic report at no cost to the legal expense fund.

(e) Any statement required to be filed under this Article shall be signed and certified as true and correct by the treasurer and shall be certified as true and correct to the best of the treasurer's knowledge. The elected officer creating the legal expense fund, or the other individual or group of individuals creating the legal expense fund on the elected officer's behalf, shall certify as true and correct to the best of their knowledge the organizational report and appointment of the treasurer. A certification under this Article shall be treated as under oath, and any individual making a certification under this Article knowing the information to be untrue is guilty of a Class I felony. (2007-349, s. 1.)

§ 163-278.309. Organizational report.

(a) Each appointed treasurer shall file with the Board a statement of organization that includes all of the following:

(1) The name, address, and purpose of the legal expense fund.

(2) The names, addresses, and relationships of affiliated or connected elected officers, candidates, political committees, referendum committees, political parties, or similar organizations.

(3) The name, address, and position with the legal expense fund of the custodian of books and accounts.

(4) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used. The Board shall keep any account number required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or except as confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

(5) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the treasurer, who shall be fully responsible for any act or acts committed by an assistant treasurer, and the treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer.

(6) Any other information which might be requested by the Board that deals with the legal expense fund organization.

(b) Any change in information previously submitted in a statement of organization shall be reported to the Board within 10 calendar days following the change. (2007-349, s. 1.)

§ 163-278.310. Quarterly report.

The treasurer of each legal expense fund shall be required to file a quarterly report with the Board containing all of the following:

(1) Legal expense donations. – The name and complete mailing address of each donor, the amount of the legal expense donation, the principal occupation of the donor, and the date the legal expense donation was received. The total sum of all legal expense donations to date shall also be plainly exhibited. The treasurer is not required to report the name of any donor making a total legal expense donation of fifty dollars (\$50.00) or less in a calendar quarter, but shall instead report the fact that the treasurer has received a total legal expense donation of fifty dollars (\$50.00) or less, the amount of the legal expense donation, and the date of receipt.

(2) Expenditures. – A list of all expenditures made by or on behalf of the legal expense fund. The report shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall also be plainly exhibited. The payee shall be the entity to whom the legal expense fund is obligated to make the expenditure. If the expenditure is to a financial institution for revolving credit or a reimbursement for a payment to a financial institution for revolving credit, the statement shall also include a specific itemization of the goods and services purchased with the revolving credit. If the obligation is for more than one good or service, the statement shall include a specific itemization of the obligation so as to provide a reasonable understanding of the obligation.

(3) Loans. – All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers. (2007-349, s. 1.)

§ 163-278.311: Reserved for future codification purposes.

§ 163-278.312: Reserved for future codification purposes.

§ 163-278.313: Reserved for future codification purposes.

§ 163-278.314: Reserved for future codification purposes.

§ 163-278.315: Reserved for future codification purposes.

§ 163-278.316. Limitations on legal expense donations.

(a) No entity shall make, and no treasurer shall accept, any monetary legal expense donation in excess of fifty dollars (\$50.00) unless such legal expense donation is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No legal expense donation in the form of check, draft, money order, credit card charge, debit, or other noncash method may be made or accepted unless it contains a specific designation of the intended donee chosen by the donor.

(b) The State Board of Elections may adopt rules as to the reporting and verification of any method of legal expense donation payment allowed under this Article. For legal expense donations by money order, the State Board shall adopt rules to ensure an audit trail for every legal expense donation so that the identity of the donor can be determined.

(c) For any legal expense donation made by credit card, the credit card account number of a donor is not a public record.

(d) No legal expense fund shall accept legal expense donations from a corporation, labor union, insurance company, professional association, or business entity in excess of four thousand dollars (\$4,000) per calendar year. No legal expense fund shall accept legal expense donations from a corporation which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated corporation exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a labor union which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated labor union exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from an insurance company which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated insurance company exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a professional association which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated professional association exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a business entity which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated business entity exceed the per calendar year legal expense donation limits for that legal expense fund. The definitions of corporation, labor union, insurance company, professional association, and business entity are the same as those in G.S. 163-278.6. This subsection does not apply to political committees created pursuant to G.S. 163-278.19(b), except that no legal expense fund shall accept a legal expense donation which would be a violation of G.S. 163-278.13B if accepted by a candidate or political committee. This subsection does not apply to corporations permitted to make contributions in G.S. 163-278.19(f).

(e) No entity shall make a legal expense donation to a legal expense fund that the legal expense fund could not accept under subsection (d) of this section. (2007-349, s. 1.)

§ 163-278.317: Reserved for future codification purposes.

§ 163-278.318: Reserved for future codification purposes.

§ 163-278.319: Reserved for future codification purposes.

§ 163-278.320. Permitted uses of legal expense funds.

(a) A legal expense fund may be used for reasonable expenses actually incurred by the elected officer in relation to a legal action or potential legal action brought by or against the elected officer in that elected officer's official capacity. The elected officer's campaign itself shall not be funded from a legal expense fund.

(b) Upon closing a legal expense account, the treasurer shall distribute the remaining monies in the legal expense fund to any of the following:

(1) The Indigent Persons' Attorney Fee Fund under Article 36 of Chapter 7A of the General Statutes.

(2) The North Carolina State Bar for the provision of civil legal services for indigents.

(3) Payments to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.

(4) To return all or a portion of a legal expense donation to the donor.

(5) Payment to the Escheat Fund established by Chapter 116B of the General Statutes. (2007-349, s. 1.)

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