

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 and [Article] 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; 2009-534, s. 6; 2013-360, s. 21.1(d); 2013-381, ss. 38.1(g), 48.2.)

§ 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 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 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, made to, or in coordination with, 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 this section; 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.
- (6a) (6f) [Reserved.]
- (6g) The term "coordinated expenditure" means an expenditure that is made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163-278.38Z(3), the agent of the candidate, or the agent of the candidate campaign committee. An expenditure for the distribution of information relating to a candidate's campaign, positions, or policies, that is obtained through publicly available resources, including a candidate campaign committee, is not a coordinated expenditure if it is not made in concert or cooperation with, or at the request

- or suggestion of, a candidate, the candidate campaign committee, the agent of the candidate, or the agent of the candidate campaign committee.
- (6h) The term "coordination" means in concert or cooperation with, or at the request or suggestion of.
 - (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) Recodified as (8p).
 - (8b) (8i) [Reserved.]
 - (8j) The term "electioneering communication" means any broadcast, cable, or satellite communication, or mass mailing, or telephone bank that has all the following characteristics:
 - a. Refers to a clearly identified candidate for elected office.
 - b. In the case of the general election in November of the even-numbered year is aired or transmitted after September 7 of that year, and in the case of any other election is aired or transmitted within 60 days of the time set for absentee voting to begin pursuant to G.S. 163-227.2 in an election for that office.
 - c. May be received by either:
 - 1. 50,000 or more individuals in the State in an election for statewide office or 7,500 or more individuals in any other election if in the form of broadcast, cable, or satellite communication.
 - 2. 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election if in the form of mass mailing or telephone bank.
 - (8k) 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 this Article.
- 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 or a solicitation of others as defined in G.S. 120C-100(a)(13) properly reported under Chapter 120C of the General Statutes.
- 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.
- f. A public opinion poll conducted by a news medium, as defined in G.S. 8-53.11(a)(3), conducted by an organization whose primary purpose is to conduct or publish public opinion polls, or contracted for by a person to be conducted by an organization whose primary purpose is to conduct or publish public opinion polls. This sub-subdivision shall not apply to a push poll. For the purpose of this sub-subdivision, "push poll" shall mean the political campaign technique in which an individual or organization attempts to influence or alter the view of respondents under the guise of conducting a public opinion poll.
- g. A communication made by a news medium, as defined in G.S. 8-53.11(a)(3), if the communication is in print.

(8l) (8o) [Reserved.]

(8p) 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 not a coordinated expenditure. 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.
- (12a) (12j) [Reserved.]
- (12k) The term "mass mailing" means any mailing by United States mail or facsimile to 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election.
- (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.
- (18c) (18j) [Reserved.]
- (18k) 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.
- (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); 2009-534, ss. 1, 3(a), (b); 2010-170, s. 1; 2011-31, s. 20; 2013-381, s. 50.1.)

§ 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; 2009-534, s. 4.)

§ 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) (4) 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) **(Effective until January 1, 2017)** 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.

(j) **(Effective January 1, 2017)** Treasurers for each of the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of the stated amount in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

- (1) A candidate for statewide office, if more than five thousand dollars (\$5,000).
- (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.
- (4) All other political committees, if more than ten thousand dollars (\$10,000).

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); 2014-111, s. 18.5(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 from reporting 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; 2009-534, s. 5.)

§ 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, person, 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, person, 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 person or 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 person or entity making a donation of more than one hundred dollars (\$100.00) to the entity filing the report if the donation was made to further the reported independent expenditure or contribution. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(d) Contributions or independent 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 independent expenditures affect, whichever occurs earlier.

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

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

- (1) The donor designates, requests, or suggests that the donation be used for an independent expenditure or for multiple independent expenditures, and the filer agrees to use the donation for an independent expenditure.
- (2) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an independent expenditure.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make independent expenditures with the donation.

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

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

(g) All reports required by this section shall be filed according to rules adopted by the State Board of Elections. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board of Elections shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person. (1973, c. 1272, s. 1; 1979, c. 107, s. 15; c. 1073, s. 20; 1999-31, s. 2(d); 2004-127, s. 16; 2010-170, s. 2.)

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

§ 163-278.12B: Reserved for future codification purposes.

§ 163-278.12C. Special reporting of electioneering communications.

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

- (1) The identification of the individual or person incurring the expense, of any individual or person sharing or exercising direction or control over the activities of that individual or person, and of the custodian of the books and accounts of the individual or person incurring the expense.
- (2) The principal place of business of the person incurring the expense, if not an individual.
- (3) The amount of each expense incurred during the period covered by the statement and the identification of the individual or person to whom the expense was incurred.
- (4) The elections to which the electioneering communications pertain, if any, and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all entities that donated, to further an electioneering communication or electioneering communications, funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the reporting period. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(b) The initial report shall be filed with the State Board no later than the 10th day following the day the individual or person incurs an expense for the direct costs of producing or airing an electioneering communication. The State Board shall require subsequent reporting according to the same schedule required of political committees under G.S. 163-278.9(a). An individual or person that produces or airs an electioneering communication shall disclose by report to the State Board within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an electioneering communication before an election but after the period covered by the last report due before that election.

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

- (1) The donor designates, requests, or suggests that the donation be used for an electioneering communication or electioneering communications, and the filer agrees to use the donation for that purpose.
- (2) The filer expressly solicited the donor for a donation for making or paying for an electioneering communication.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an electioneering communication.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make electioneering communication with the donation.

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

(d) All reports required by this section shall be filed according to rules adopted by the State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person. (2010-170, s. 3.)

§ 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 five thousand dollars (\$5,000) for that election.

(a1) Effective for each odd-numbered calendar year beginning in 2015, the dollar amount of the contribution limitation established by subsections (a), (b), and (c) of this subsection shall be increased as provided in this subsection. On July 1 of each even-numbered year, the State Board of Elections shall calculate from data from the Bureau of Labor Statistics of the United States Department of Labor Register the percent difference between the price index for the July 1 of the previous even-numbered year. That percentage increase shall be multiplied by the previous dollar amount contribution limit, that number added to the previous dollar amount contribution limit, and the total shall become effective with respect to contributions made or accepted on or after January 1 of the next odd-numbered year. If the amount after adjustment is not a multiple of one hundred dollars (\$100.00), the total shall be rounded to the nearest multiple of one hundred dollars (\$100.00). As used in this subsection the term "price index" means the average over a calendar year of the Consumer Price Index (all items - United States city average) published monthly by the Bureau of Labor Statistics. The revised amount of the dollar limit of contributions shall remain in effect for two calendar years until the next adjustment is made. The State Board of Elections shall publish the revised amount in the North Carolina Register and shall notify the Reviser of Statutes who shall adjust the dollar amounts in subsections (a), (b), and (c) of this section.

(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 five thousand dollars (\$5,000) 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 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 five thousand dollars (\$5,000) for that election.

(d) For the purposes of this section, the term "an election" means the period of time from January 1 of an odd-numbered year through the day of the primary, the day after the primary through the day of the second primary, or the day after the primary through December 31 of the next even-numbered year, 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) 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) Repealed by Session Laws 2013-360, s. 21.1(f) and Session Laws 2013-381, s. 38.1(i), effective July 1, 2013.

(e3) Repealed by Session Laws 2013-381, s. 42.3, effective January 1, 2014.

(e4) Repealed by Session Laws 2013-381, s. 38.1(j), effective July 1, 2013.

(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) Repealed by Session Laws 2013-360, s. 21.1(f), effective July 1, 2013. (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); 2013-360, s. 21.1(e), (f); 2013-381, ss. 38.1(h), (i), (j), 42.1, 42.2, 42.3, 53.1(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 do any of the following with respect to a candidate or candidate campaign committee described in subdivisions (a)(1) and (a)(2) of this section:

- (1) Collect a contribution or multiple contributions from one or more contributors intended for that candidate or candidate campaign committee.
- (2) Take possession of a contribution or multiple contributions intended for that candidate or candidate campaign committee.
- (3) Transfer or deliver a collected contribution or multiple contributions to the intended candidate or candidate campaign committee.

(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; 2013-381, s. 47.1(a).)

§ 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. This subsection shall not apply to any contribution by an individual with the lawful authority to act on behalf of another individual, whether through power of attorney, trustee, or other lawful authority.

(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; 2010-169, s. 6(b).)

§ 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 those funds shall be paid in the event of the death or incapacity of the candidate. If the candidate fails to file the written designation before death, the personal representative of the estate may file the written designation within 90 days of the date of death, and may only direct those funds to donations under subdivision (a)(3) of this section. 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; 2009-534, s. 2(h); 2010-100, s. 1.)

§ 163-278.17. Statements of media outlets regarding political advertising.

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

(b) Each media outlet 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 written authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed public records and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast.

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

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

- (1) The name and address of the individual, person, or entity making the independent expenditure or electioneering communication.
- (2) The information required by G.S. 163-278.39(a), provided however that the provisions of G.S. 163-278.39(a)(7) and (a)(8) shall not apply to radio or television advertising. (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; 2010-170, s. 4.)

§ 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 do any of the following:

- (1) To make any contribution to a candidate or political committee.
- (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.
- (3) To compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so made.

It shall also 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 for any person or individual to solicit or knowingly receive any such contribution. 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 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 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 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, reimbursement, or indemnification 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 by an [a] person or 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; 2010-170, s. 5.)

§ 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 principal headquarters building, to construct a principal headquarters building, to renovate a principal headquarters building, to pay a mortgage on a principal headquarters building, to repay donors if a principal headquarters building is not purchased, constructed, or renovated, or to pay building rent or monthly or bimonthly utility expenses incurred to operate the principal headquarters building. Donations deposited into that account shall be used solely for the purposes set forth in the preceding sentence, and specifically shall not be used for headquarters equipment other than fixtures, personnel compensation, or travel or fundraising expenses or requirements of any kind. Notwithstanding the above, personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign

finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year

- (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); 2013-381, s. 43.1.)

§ 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.
- (15) To establish a process for determination as to whether communication is an expenditure, independent expenditure, or electioneering communication prior to the airing or distribution of that communication when so requested by an individual or person producing a communication. 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 require a written determination by the Executive Director to include stated findings and an opportunity for immediate appeal to the State Board of the determination by the Executive Director. (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; 2010-170, s. 6.)

§ 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 and [Article] 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; 2013-360, s. 21.1; 2013-381, ss. 43.1, 47.1, 48.3.)

§ 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 as stated in G.S. 15-1 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.

(a2) A person or individual who intentionally violates G.S. 163-278.14(a) or G.S. 163-278.19(a) and the unlawful contributions total more than ten thousand dollars (\$10,000) per election is guilty of 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; 2010-169, s. 6(a).)

§ 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(1).)

§ 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.)

§§ 163-278.38A through 163-278.38Y. Reserved for future codification purposes.

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.
 - (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); 2010-170, s. 7.)

§ 163-278.39. Basic disclosure requirements for all political 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, independent expenditure, electioneering communication, 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) or G.S. 163-278.12C(a).
- (3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.
- (4) Repealed by Session Laws 2013-381, s. 56.1, effective January 1, 2014.
- (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.

(7), (8) Repealed by Session Laws 2013-381, s. 56.1, effective January 1, 2014.

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 four percent (4%) of vertical picture height in size, and where the television advertisement that appears is paid for by a candidate or candidate campaign committee, the visual disclosure legend shall appear simultaneously with an easily identifiable photograph of the candidate for at least two seconds. 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; 2010-170, s. 8; 2013-381, ss. 44.2, 56.1.)

§ 163-278.39A: Repealed by Session Laws 2013-381, s. 44.1, effective January 1, 2014.

§ 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. The director 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 State Board of Elections 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; 2014-111, s. 9.)

§ 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).)



WISCONSIN LEGISLATIVE COUNCIL
INFORMATION MEMORANDUM

Campaign Contribution Limits

Wisconsin law places limits on campaign contributions to candidates for state office, political party committees, and legislative campaign committees. Specifically, state law limits the amount that an individual or committee may contribute to a candidate and the amount that a committee may contribute to a political party or legislative campaign committee.

This Information Memorandum describes the contribution limits in state law and also briefly discusses two recent court decisions that enjoined aggregate limits on: (1) individual contributions to all candidates and committees combined; and (2) committee contributions to candidates.¹

CONTRIBUTIONS TO CANDIDATES FOR STATE OFFICE

State law limits the amount that an individual or committee² may contribute to a candidate for state office,³ as outlined in Table 1 below. [s. 11.26 (1) and (2), Stats.]

However, the contribution limits do not apply to a political party or legislative campaign committee. Accordingly, a political party or legislative campaign committee may contribute an unlimited amount to a candidate for state office.

¹ This Information Memorandum does not address limits on contributions to candidates for local office, which is also governed by state law. In addition, this Information Memorandum does not address limitations on contributions made by corporations under s. 11.38 (1) (a) 1., Stats.

² A “committee” means any person, other than an individual, and any combination of two or more persons, permanent or temporary, that makes or accepts contributions or makes disbursements, whether or not engaged in activities that are exclusively political. The terms “contributions” and “disbursements” generally refer to certain activities done for “political purposes,” as defined in s. 11.01 (16), Stats. [s. 11.01 (4), (6), and (7), Stats.] A “committee” includes a political party committee, legislative campaign committee, special interest committee (commonly referred to as a “political action committee” or “PAC”), and candidate’s personal campaign committee or support committee.

³ The contribution limits for candidates also apply to the amount that an individual or committee may contribute to an individual (other than a candidate) or committee (other than a personal campaign committee) that: (1) desires to make disbursements to advocate the election or defeat of a clearly identified candidate; (2) files an oath affirming that it will act independently of any candidate, candidate’s agent, or candidate’s authorized committee; and (3) acts solely in support of a candidate for state office or solely in opposition to the candidate’s opponent. [ss. 11.06 (7) and 11.26 (1) and (2), Stats.]

PAC to candidate
3

Table 1: Contribution Limits: Candidates for State Office		
	Individual	Committee
Governor	\$10,000	\$43,128
Lieutenant Governor	\$10,000	\$12,939
Attorney General	\$10,000	\$21,560
Secretary of State	\$10,000	\$ 8,625
State Treasurer	\$10,000	\$ 8,625
State Superintendent	\$10,000	\$ 8,625
Supreme Court Justice	\$10,000	\$ 8,625
Court of Appeals Judge (District I)	\$ 3,000	\$ 3,000
Court of Appeals Judge (Districts II, III, & IV)	\$ 2,500	\$ 2,500
Circuit Court Judge (Milwaukee, Dane, & Waukesha Counties)	\$ 3,000	\$ 3,000
Circuit Court Judge (Other Counties)	\$ 1,000	\$ 1,000
District Attorney (Milwaukee, Dane, & Waukesha Counties)	\$ 3,000	\$ 3,000
District Attorney (Other Counties)	\$ 1,000	\$ 1,000
State Senator	\$ 1,000	\$ 1,000
State Representative	\$ 500	\$ 500

The contribution limits apply cumulatively to the candidate's campaign for the primary and election. A candidate is not bound by the contribution limits for personal contributions that the candidate makes to his or her own campaign. [s. 11.26 (3) and (5), Stats.]

In addition to these contribution limits, state law places aggregate limits on: (1) individual contributions to all candidates and committees combined; and (2) committee contributions to candidates. However, the aggregate limits are **not in effect** because of two recent court decisions. The following are descriptions of each aggregate limit and the court decision prohibiting enforcement of the limit:

- Aggregate Limit on Individual Contributions: An individual may not exceed \$10,000 per calendar year in contributions to any combination of the following recipients: (1) candidates for state and local offices; and (2) individuals who or committees that are required to register under the state campaign finance law, including political party and legislative campaign committees. [s. 11.26 (4), Stats.] On May 22, 2014, the U.S. District Court for the Eastern District of Wisconsin issued an order enjoining enforcement of this aggregate limit. [*Young v. Vocke*, Case No. 13-CV-635.] In that case, the parties stipulated to the injunction after the U.S. Supreme Court struck down a similar aggregate limit in federal law in *McCutcheon v. Federal Election Commission*, 134 S. Ct. 1434 (2014).

- **Aggregate Limits on Committee Contributions:** A candidate may not accept more than: (1) 65 percent of the total disbursement level in s. 11.31, Stats., for the office for which he or she is a candidate from all committees combined, *including* any political party and legislative campaign committees; and (2) 45 percent of the total disbursement level for the office for which he or she is a candidate from all committees combined, *excluding* political party and legislative campaign committees. [s. 11.26 (9), Stats.] On September 5, 2014, the U.S. District Court for the Eastern District of Wisconsin issued a preliminary injunction that prohibits the Government Accountability Board (GAB) from enforcing these aggregate limits. [*CRG Network v. Barland*, Case No. 14-CV-719.]

CONTRIBUTIONS TO COMMITTEES

An individual generally may contribute an unlimited amount to a committee (except for contributions to candidate committees). As described above, the \$10,000 aggregate limit on individual contributions to all candidates and committees combined is not in effect.

In addition, a political party or legislative campaign committee may contribute an unlimited amount to a committee, and a committee may contribute an unlimited amount to another committee (except for contributions to political party, legislative campaign, and candidate committees).

CONTRIBUTIONS TO POLITICAL PARTY AND LEGISLATIVE CAMPAIGN COMMITTEES

State law limits the amount that a political party or legislative campaign committee may accept from committees in the following manner:

- A political party or legislative campaign committee may not accept more than a total of \$6,000 in contributions in any calendar year from any specific committee or its subunits or affiliates, excluding legislative campaign and political party committees. [ss. 11.26 (8) (b) and (c) and 11.265 (2) and (3), Stats.]
- A political party or legislative campaign committee may not accept more than a total of \$150,000 in value of its contributions in any biennium from all other committees, excluding contributions from legislative campaign committees and transfers between committees of the party. [ss. 11.26 (8) (a) and 11.265 (2) and (3), Stats.]

Table 2: Contribution Limits: Political Party and Legislative Campaign Committees			
RECIPIENT	CONTRIBUTOR		
		Single Committee	All Committees Combined
	Political Party Committee	\$6,000 (calendar year)	\$150,000 (biennium)
Legislative Campaign Committee	\$6,000 (calendar year)	\$150,000 (biennium)	

However, the contribution limits to political party and legislative campaign committees do not apply to contributions made by individuals or by political party or legislative campaign committees. Accordingly, an individual may contribute an unlimited amount to a political party or legislative campaign committee. A political party committee may contribute an unlimited amount to a legislative campaign committee or to another political party committee. A legislative campaign committee may contribute an unlimited amount to a political party committee or to another legislative campaign committee.

SUMMARY OF CONTRIBUTION LIMITS

Table 3, below, summarizes which contributions are limited and which contributions are unlimited. See Tables 1 and 2 for additional information on contributions that are limited.

Table 3: Contributions to Candidates, Committees, Political Party Committees, and Legislative Campaign Committees					
CONTRIBUTOR					
RECIPIENT		Individual	Committee	Political Party Committee	Legislative Campaign Committee
	Candidate	Limited (Table 1)	Limited (Table 1)	Unlimited	Unlimited
	Committee	Unlimited	Unlimited	Unlimited	Unlimited
	Political Party Committee	Unlimited	Limited (Table 2)	Unlimited	Unlimited
	Legislative Campaign Committee	Unlimited	Limited (Table 2)	Unlimited	Unlimited

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Jessica Karls-Ruplinger, Principal Attorney, on December 12, 2014.

CHAPTER 11

CAMPAIGN FINANCING

11.001	Declaration of policy.	11.22	Duties of local filing officer.
11.002	Construction.	11.23	Political groups and individuals; referendum questions.
11.01	Definitions.	11.24	Unlawful political contributions.
11.02	Determination of filing officer.	11.25	Unlawful political disbursements and obligations.
11.03	Nonapplicability.	11.26	Limitation on contributions.
11.04	Registration and voting drives.	11.265	Legislative campaign committees.
11.05	Registration of political committees, groups and individuals.	11.27	False reports and statements.
11.055	Filing fees.	11.29	Communications for political purposes.
11.06	Financial report information; application; funding procedure.	11.30	Attribution of political contributions, disbursements and communications.
11.07	Designation of agent by nonresident individuals, committees and groups.	11.31	Disbursement levels; calculation.
11.08	Reports by party committees.	11.32	Compensation for political advertisements.
11.09	Duplicate reports required in certain cases.	11.33	Use of government materials by candidates.
11.10	Campaign treasurers and campaign depositories.	11.34	Solicitation of contributions from candidates restricted.
11.12	Campaign contributions and disbursements; reports.	11.36	Political solicitation involving public officials and employees restricted.
11.14	Deposit of contributions.	11.37	Travel by public officers.
11.16	Campaign contributions and disbursements; restrictions.	11.38	Contributions and disbursements by corporations and cooperatives.
11.17	Treatment of loan guarantees.	11.40	Special privileges from public utilities.
11.18	Support committee.	11.60	Civil penalties.
11.185	Redirection of contributions made to conduits.	11.61	Criminal penalties; prosecution.
11.19	Dissolution of registrants; termination reports.	11.64	Defense fund authorized.
11.20	Filing requirements.	11.65	Donations to charitable organizations or school fund.
11.21	Duties of the government accountability board.	11.66	Elector may compel compliance.

NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 11, contains an extensive prefatory note explaining the changes.

Cross-reference: See definitions in s. 5.02.

Cross-reference: See also chs. GAB 1 and 6, Wis. adm. code.

11.001 Declaration of policy. (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

(3) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

History: 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.

Campaign finance in Wisconsin after *Buckley*, 1976 WLR 816.

Decoding the Maze: Wisconsin's Campaign Finance Laws. Wittenwyler & Jensen. Wis. Law. Oct. 2014.

11.002 Construction. This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.

History: 1979 c. 328 ss. 9, 11.

11.01 Definitions. As used in this chapter:

(1) "Candidate" means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) "Charitable organization" means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) "Clearly identified", when used with reference to a communication in support of or in opposition to a candidate, means:

- The candidate's name appears;
- A photograph or drawing of the candidate appears; or
- The identity of the candidate is apparent by unambiguous reference.

(4) "Committee" or "political committee" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements, whether or not engaged in activities which are exclusively political, except that a "committee" does not include a political "group" under this chapter.

(5) "Communications media" means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

11.01 CAMPAIGN FINANCING

Updated 13-14 Wis. Stats. 2

(5m) "Conduit" means an individual who or an organization which receives a contribution of money and transfers the contribution to another individual or organization without exercising discretion as to the amount which is transferred and the individual to whom or organization to which the transfer is made.

(6) (a) Except as provided in par. (b), "contribution" means any of the following:

1. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1., whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1. other than by a registrant under s. 11.05, or as provided in s. 11.29.

7. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. 11.25 (2) (b), or by an individual for a purpose authorized under s. 11.25 (2) (b) if deposited in a campaign depository account.

(b) "Contribution" does not include any of the following:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for the services.

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

4. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

7. A gift, subscription, loan, advance, or deposit of anything of value received by a committee or group not organized exclu-

sively for political purposes that the group or committee does not utilize for political purposes.

8. Any cost incurred to conduct Internet activity for a political purpose by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

9. Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

(6L) "Corporation" includes a limited liability company.

(7) (a) Except as provided in par. (b), "disbursement" means any of the following:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. An expenditure authorized under s. 11.25 (2) (b) made from a campaign depository account.

5. Any payment for a communication to the general public for a political purpose by means of any broadcast, satellite communication, newspaper or other periodical publication, outdoor advertising facility, mass mailing, or mass telephoning to the general public, or any other form of advertising to the general public, except communications over the Internet by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13).

6. Any payment for the purchase or rental of an electronic-mail address list made at the direction of a registrant for a political purpose.

7. Any payment for an electronic-mail address list that is transferred to a registrant for a political purpose.

(b) "Disbursement" does not include any of the following:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

3. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for

a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

6. A communication or Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

7. Any cost incurred in covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, programmer or producer, Internet site, or newspaper or other periodical publication, including an Internet or electronic publication, except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

8. A nominal fee paid for a communication to the general public.

(8) "Filing officer" means the official or agency determined in accordance with s. 11.02.

(9) "Filing requirement" means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) "Group" or "political group" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) "Incurred obligation" means every express obligation to make any contribution or disbursement including every loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) "Intentionally" has the meaning given under s. 939.23.

(12m) "Internet activity" includes sending or forwarding an electronic message; providing a hyperlink or other direct access on a person's Internet site to an Internet site operated by another person; blogging; creating, maintaining, or hosting an Internet site; payment by a person of a nominal fee for the use of an Internet site operated by another person; or any other form of communication distributed over the Internet.

(12s) "Legislative campaign committee" means a committee which does not file an oath under s. 11.06 (7) organized in either house of the legislature to support candidates of a political party for legislative office.

(15) "Personal campaign committee" means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate's agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate's agent.

(16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a

candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

(b) A "political purpose" does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014), held that the definition of "political purposes," in sub. (16), is unconstitutionally vague and overbroad and requires a narrowing construction.

(17g) "Public access channel" means a PEG channel, as defined in s. 66.0420 (2) (s), that is used for public access purposes, but does not include a PEG channel that is used for governmental or educational purposes.

(17r) "Public access channel operator" means a person designated by a city, village, or town as responsible for the operation of a public access channel.

(18m) "Registrant" means an individual or organization registered under s. 11.05 with a filing officer.

(19) "Salary" means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31; 1983 a. 484, 491; 1985 a. 303; 1987 a. 370, 391; 1989 a. 192; 1993 a. 112; 1999 a. 83; 2001 a. 103, 109; 2005 a. 177; 2007 a. 42; 2013 a. 153.

It may be appropriate to consider context in determining whether a communication "expressly advocates" within the meaning of sub. (16) (a) 1. The Elections Board's attempt to apply a context-based standard of express advocacy was an unfair attempt at retroactive rule-making, without any express statutory grant of authority, and thus, a violation of due process. *Elections Board v. Wisconsin Manufacturers & Commerce*, 227 Wis. 2d 650, 597 N.W.2d 721 (1999), 98-0596.

The term "political purposes" is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99-2574.

The definition of "political purposes," which triggers PAC duties and other requirements and restrictions, is vague and overbroad in the sense meant by *Buckley v. Valeo*, 424 U.S. 1, and requires a limiting construction. As applied to political speakers other than candidates, their committees, and political parties, the statutory definition of "political purposes" in section 11.01(16) is limited to express advocacy and its functional equivalent. *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014).

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

11.02 Determination of filing officer. Except where the filing of duplicate reports or statements is specifically required by law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The "filing officer" for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The "filing officer" for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) Except as provided in sub. (3e), the "filing officer" for each candidate for local office and for each committee which or

SELECTED DRAFT "A" TERMINOLOGY: CORRESPONDING DEFINITIONS UNDER ILLINOIS LAW

(1) Candidate

Under Illinois law, "**candidate**" means any person who seeks nomination for election, election to or retention in public office, or any person who seeks election as ward or township committeeman in counties of 3,000,000 or more population, whether or not such person is elected. A person seeks nomination for election, election or retention if he (1) takes the action necessary under the laws of this State to attempt to qualify for nomination for election, election to or retention in public office or election as ward or township committeeman in counties of 3,000,000 or more population, or (2) receives contributions or makes expenditures, or gives consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination for election or election to or retention in public office, or his or her election as ward or township committeeman in counties of 3,000,000 or more population. [10 ILCS 5/9-1.3]

(2) Candidate committee

Under Illinois law, "**candidate political committee**" means the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of the candidate. [10 ILCS 5/9-1.8(b)]

(3) Candidate's agent

There is no corresponding definition under Illinois law.

(4) Conduit

There is no corresponding definition under Illinois law; however, the Illinois statutes provide that "a corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association may act as a **conduit** in facilitating the delivery to a political action committee of contributions made through dues, levies, or similar assessments and the political action committee may report the contributions in the aggregate" subject to certain requirements.

(5) Legislative campaign committee

Under Illinois law, the closest corresponding definition is for a "**legislative caucus committee**," which is contained in the definition of "political party committee," below.

(6) Political action committee

Under Illinois law, "**political action committee**" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of or in opposition to a candidate or candidates for public office. "Political action committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group

of persons, other than a candidate, political party, candidate political committee, or political party committee, that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$5,000 related to any candidate or candidates for public office. [10 ILCS 5/9-1.8(d)]

(7) Political party committee

Under Illinois law, "**political party committee**" means the State central committee of a political party, a county central committee of a political party, a legislative caucus committee, or a committee formed by a ward or township committeeman of a political party. For purposes of this Article, a "legislative caucus committee" means a committee established for the purpose of electing candidates to the General Assembly by the person elected President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, or a committee established by 5 or more members of the same caucus of the Senate or 10 or more members of the same caucus of the House of Representatives. [10 ILCS 5/9-1.8(c)]

(8) Recall committee

There is no corresponding definition under Illinois law.

(9) Referendum committee

Under Illinois law, "**ballot initiative committee**" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 in support of or in opposition to any question of public policy to be submitted to the electors. "Ballot initiative committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$5,000 related to any question of public policy to be submitted to the voters. The \$5,000 threshold applies to any contributions or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy, regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body. [10 ILCS 5/9-1.8(e)]

(10) Other related definitions

Under Illinois law, "**political committee**" includes a candidate political committee, a political party committee, a political action committee, a ballot initiative committee, and an independent expenditure committee. [10 ILCS 5/9-1.8(a)]

Also, under Illinois law, "**Independent expenditure committee**" means any trust, partnership, committee, association, corporation, or other organization or group of persons formed for the exclusive purpose of making independent expenditures during any 12-month period in an aggregate amount exceeding \$5,000 in support of or in opposition to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the electors. "Independent expenditure committee" also includes any trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering

communications that are not made in connection, consultation, or concert with or at the request or suggestion of a public official or candidate, a public official's or candidate's designated political committee or campaign, or an agent or agents of the public official, candidate, or political committee or campaign during any 12-month period in an aggregate amount exceeding \$5,000 related to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the voters. [10 ILCS 5/9-1.8(f)]

SUBCHAPTER I
GENERAL PROVISIONS

68A.101 Citation and administration.

This chapter may be cited as the “*Campaign Disclosure – Income Tax Checkoff Act*”. The Iowa ethics and campaign disclosure board shall administer this chapter as provided in sections 68B.32, 68B.32A, 68B.32B, 68B.32C, and 68B.32D.

[C75, 77, 79, 81, §56.1]

2003 Acts, ch 40, §9

CS2003, §68A.101

2009 Acts, ch 42, §1

68A.102 Definitions.

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

1. “*Ballot issue*” means a question, other than the nomination or election of a candidate to a public office, which has been approved by a political subdivision or the general assembly or is required by law to be placed before the voters of the political subdivision by a commissioner of elections, or to be placed before the voters by the state commissioner of elections.
2. “*Board*” means the Iowa ethics and campaign disclosure board established under section 68B.32.
3. “*Campaign function*” means any meeting related to a candidate’s campaign for election.
4. “*Candidate*” means any individual who has taken affirmative action to seek nomination or election to a public office and shall also include any judge standing for retention in a judicial election.
5. “*Candidate’s committee*” means the committee designated by the candidate for a state, county, city, or school office to receive contributions in excess of seven hundred fifty dollars in the aggregate, expend funds in excess of seven hundred fifty dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of seven hundred fifty dollars in the aggregate in any calendar year.
6. “*Clearly identified*” means that a communication contains an unambiguous reference to a particular candidate or ballot issue, including but not limited to one or more of the following:
 - a. Use of the name of the candidate or ballot issue.
 - b. Use of a photograph or drawing of the candidate, or the use of a particular symbol associated with a specific ballot issue.
 - c. Use of a candidate’s initials, nickname, office, or status as a candidate, or use of acronym, popular name, or characterization of a ballot issue.
7. “*Commissioner*” means the county auditor of each county, who is designated as the county commissioner of elections pursuant to section 47.2.
8. “*Committee*” includes a political committee and a candidate’s committee.
9. “*Consultant*” means a person who provides or procures services including but not limited to consulting, public relations, advertising, fundraising, polling, managing or organizing services.
10. a. “*Contribution*” means:
 - (1) A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.
 - (2) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.
- b. “*Contribution*” shall not include:
 - (1) Services provided without compensation by individuals volunteering their time on behalf of a candidate’s committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association.
 - (2) Refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value

computed at the current rate of reimbursement allowed under the standard mileage rate method for computation of business expenses pursuant to the Internal Revenue Code does not exceed one hundred dollars in value in any one reporting period.

(3) Something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee.

11. "County office" includes the office of drainage district trustee.

12. "County statutory political committee" means a committee as described in section 43.100 that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office.

13. "Disclosure report" means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules adopted by the board in accordance with chapter 17A.

14. "Express advocacy" or to "expressly advocate" means communication that can be characterized according to at least one of the following descriptions:

a. The communication is political speech made in the form of a contribution.

b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.

15. "Fundraising event" means any campaign function to which admission is charged or at which goods or services are sold.

16. "National political party" means a party which meets the definition of a political party established for this state by section 43.2, and which also meets the statutory definition of the term "political party" or a term of like import in at least twenty-five other states of the United States.

17. "Person" means, without limitation, any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

18. "Political committee" means any of the following:

a. A committee, but not a candidate's committee, that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

c. A person, other than an individual, that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate that an individual should or should not seek election to a public office prior to the individual becoming a candidate as defined in subsection 4.

19. "Political purpose" or "political purposes" means the express advocacy of a candidate or ballot issue.

20. "Public office" means any state, county, city, or school office filled by election.

21. "State income tax liability" means the state individual income tax imposed under

section 422.5, less the amounts of nonrefundable credits allowed under chapter 422, division II.

22. "State statutory political committee" means a committee as defined in section 43.111.

[C75, 77, 79, 81, §56.2; 81 Acts, ch 35, §1, 2]

83 Acts, ch 139, §2, 14; 86 Acts, ch 1023, §1; 87 Acts, ch 112, §1, 2; 91 Acts, ch 226, §1; 92 Acts, ch 1228, §22 - 24; 93 Acts, ch 142, §1 - 3; 93 Acts, ch 163, §28 - 30, 38; 94 Acts, ch 1023, §80; 94 Acts, ch 1180, §31, 32; 95 Acts, ch 198, §1, 2; 99 Acts, ch 136, §1, 2, 17; 2002 Acts, ch 1073, §1, 2, 11; 2002 Acts, ch 1119, §124; 2003 Acts, ch 40, §9

CS2003, §68A.102

2005 Acts, ch 72, §3, 4; 2006 Acts, ch 1158, §2; 2007 Acts, ch 14, §1; 2008 Acts, ch 1031, §84; 2010 Acts, ch 1025, §1, 2

Referred to in §43.18, 43.67, 44.3, 45.3, 68A.201, 68A.202, 68A.402, 99B.7, 99F.6

"State commissioner" defined, §39.3

68A.103 Applicability to federal candidates.

1. The requirements of this chapter relative to disclosure of contributions shall apply to candidates and political committees for federal office only in the event such candidates are not subject to a federal law requiring the disclosure of campaign financing. Any such federal law shall supersede the provisions of this chapter.

2. The provisions of this chapter under which money from the Iowa election campaign fund may be made available to or used for the benefit of candidates and candidates' committees shall apply to candidates for federal office and their candidates' committees only if matching funds to pay a portion of their campaign expenses are not available to such candidates or their committees from the federal government.

[C75, 77, 79, 81, §56.17]

2003 Acts, ch 40, §9

CS2003, §68A.103

Referred to in §68A.604

68A.104 Certain accounts by officeholders prohibited.

A holder of public office shall not maintain an account, other than a campaign account, to receive contributions for the purpose of publishing and distributing newsletters or performing other constituent services related to the official duties of public office. This section applies whether or not the officeholder is a candidate.

91 Acts, ch 226, §14

CS91, §56.46

2003 Acts, ch 40, §9

CS2003, §68A.104

SUBCHAPTER II

COMMITTEE ORGANIZATION — DUTIES OF OFFICERS

68A.201 Organization statement.

1. Every committee, as defined in this chapter, shall file a statement of organization within ten days from the date of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that committee transactions exceed the financial activity threshold established in section 68A.102, subsection 5 or 18. If committee transactions exceed the financial activity threshold prior to the due date for filing a disclosure report as established under section 68A.402, the committee shall file a disclosure report whether or not a statement of organization has been filed by the committee.

2. The statement of organization shall include:

a. The name, purpose, mailing address, and telephone number of the committee. The committee name shall not duplicate the name of another committee organized under this

Michigan Campaign Finance Act Campaign "Actors"

Section 169.202 (Section 2) Definitions; A, B.

- (2) "Ballot question" means a question that is submitted or is intended to be submitted to a popular vote at an election whether or not it qualifies for the ballot.
- (3) "Ballot question committee" means a committee acting in support of, or in opposition to, the qualification, passage, or defeat of a ballot question but that does not receive contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate.
- (4) "Bundle" means for a bundling committee to deliver 1 or more contributions from individuals to the candidate committee of a candidate for statewide elective office, without the money becoming money of the bundling committee.
- (5) "Bundling committee" means an independent committee or political committee that makes an expenditure to solicit or collect from individuals contributions that are to be part of a bundled contribution, which expenditure is required to be reported as an in-kind expenditure for a candidate for statewide elective office.

Section 169.203 (Section 3) Definitions; C.

- (1) "Candidate" means an individual who meets 1 or more of the following criteria:
- (a) Files a fee, an affidavit of incumbency, or a nominating petition for an elective office.
 - (b) Is nominated as a candidate for elective office by a political party caucus or convention and whose nomination is certified to the appropriate filing official.
 - ? x (c) Receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's nomination or election to an elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received or the expenditure is made.
 - ? y (d) Is an officeholder who is the subject of a recall vote.
 - ? x (e) Holds an elective office, unless the officeholder is constitutionally or legally barred from seeking reelection or fails to file for reelection to that office by the applicable filing deadline. An individual described in this subdivision is considered to be a candidate for reelection to that same office for the purposes of this act only.

For purposes of sections 61 to 71 (The State Campaign Fund), "candidate" only means, in a primary election, a candidate for the office of governor and, in a general election, a candidate for

the office of governor or lieutenant governor. However, the candidates for the office of governor and lieutenant governor of the same political party in a general election shall be considered as 1 candidate.

(2) "Candidate committee" means the committee designated in a candidate's filed statement of organization as that individual's candidate committee. A candidate committee shall be under the control and direction of the candidate named in the same statement of organization. Notwithstanding subsection (4), an individual shall form a candidate committee under section 21 if the individual becomes a candidate under subsection (1).

(4) "Committee" means a person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year. An individual, other than a candidate, does not constitute a committee. A person, other than a committee registered under this act, making an expenditure to a ballot question committee, shall not, for that reason, be considered a committee for the purposes of this act unless the person solicits or receives contributions for the purpose of making an expenditure to that ballot question committee.

Section 169.208 (Section 8) Definitions; H, I.

(1) "House political party caucus committee" means an independent committee established by a political party caucus of the state house of representatives under section 24a.

(3) "Independent committee" means a committee, other than a political party committee, that before contributing to a candidate committee of a candidate for elective office under section 52(2) or 69(2) files a statement of organization as an independent committee at least 6 months before an election for which it expects to accept contributions or make expenditures in support of or in opposition to a candidate for nomination to or election to an elective office; and receives contributions from at least 25 persons and makes expenditures not to exceed the limitations of section 52(1) in support of or in opposition to 3 or more candidates for nomination to or election to an elective office in the same calendar year.

169.211 (Section 11) Definitions; P.

(3) "Political committee" means a committee that is not a candidate committee, political party committee, independent committee, or ballot question committee.

(5) "Political party" means a political party that has a right under law to have the names of its candidates listed on the ballot in a general election.

(6) "Political party committee" means a state central, district, or county committee of a political party or a party attempting to qualify as a new political party under section 685 of the Michigan election law, 1954 PA 116, MCL 168.685, that is a committee. Each state central committee

shall designate the official party county and district committees. There shall not be more than 1 officially designated political party committee per county and per congressional district.

169.212 (Section 11) Definitions; Q to S.

(2) "Senate political party caucus committee" means an independent committee established by a political party caucus of the state senate under section 24a.

169.224a (Section 24a) House political party caucus committee; senate political party caucus committee; limitation; dissolution of independent committees; exception.

(1) A political party caucus of the state house of representatives may maintain 1 house political party caucus committee. A political party caucus of the state house of representatives shall not maintain more than 1 house political party caucus committee. Not later than 30 days after the effective date of this section, the leader of each political party caucus of the state house of representatives shall establish or designate the independent committee that is the house political party caucus committee under this section. Not later than 30 days after the effective date of this section, a political party caucus of the state house of representatives shall dissolve all independent committees established by that political party caucus under this act before the effective date of this section, other than the designated house political party caucus committee under this subsection.

(2) A political party caucus of the state senate may maintain 1 senate political party caucus committee. A political party caucus of the state senate shall not maintain more than 1 senate political party caucus committee. Not later than 30 days after the effective date of this section, the leader of each political party caucus of the state senate shall establish or designate the independent committee that is the senate political party caucus committee under this section. Not later than 30 days after the effective date of this section, a political party caucus of the state senate shall dissolve all independent committees established by that political party caucus under this act before the effective date of this section, other than the designated senate political party caucus committee under this subsection.

MINNESOTA

Minnesota Campaign Finance Law Campaign "Actors"

The Minnesota definitions related to campaign finance tend to either rely on terms that are themselves defined elsewhere or, as in the case of "candidate", include substantive provisions that don't belong in the definitions.

Chapter 10A.01 Definitions

Subd. 7c. Ballot question political committee

"Ballot question political committee" means a political committee that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 10. Candidate

"Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$750, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$750, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.243

(Note: MN chapter 10A does not apply to local offices. The MN statutes have a separate chapter for that.)

Subd. 18a. Independent expenditure political committee.

"Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 27. Political committee.

"Political committee" means an association whose *major purpose* [emphasis added] is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 29. Political party.

"Political party" means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.

(Note: the definitions of major and minor political party under Minnesota's election law—section 200.02, subs. 7 and 23—are not helpful for campaign finance purposes.)

Subd. 30. Political party unit or party unit.

"Political party unit" or "party unit" means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.

Subd. 34. Principal campaign committee.

"Principal campaign committee" means a principal campaign committee formed under section 10A.105.

- 30141.
Extension of credit by regulated industries; regulations.
- 30142.
Prohibition against use of certain Federal funds for election activities.
- 30143.
State laws affected.
- 30144.
Partial invalidity.
- 30145.
Period of limitations.
- 30146.
Collection and use of conference fees.

SUBCHAPTER I—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

§30101. Definitions

When used in this Act:

- (1) The term "election" means—
 - (A) a general, special, primary, or runoff election;
 - (B) a convention or caucus of a political party which has authority to nominate a candidate;
 - (C) a primary election held for the selection of delegates to a national nominating convention of a political party; and
 - (D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

- (2) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—
 - (A) if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000; or
 - (B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.

- (3) The term "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.
- (4) The term "political committee" means—
 - (A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; or
 - (B) any separate segregated fund established under the provisions of section 30118(b) of this title; or
 - (C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.

- (5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 30102(e)(1) of this title.
- (6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 30102(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.
- (7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers or financially supports a political committee.
- (8)(A) The term "contribution" includes—
 - (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or
 - (ii) the payment by any person of compensation for the personal services of another person which are

rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(ix) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(x) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or referenced to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided*, That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xi) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access;

(xiii) any honorarium (within the meaning of section 30125 of this title); and

(xiv) any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed \$2,000 for any election, be reported to the Commission in accordance with section 30104(a)(4)(A)(i) of this title, and in accordance with section 30104(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 30116(b) of this title, but all such costs shall be reported in accordance with section 30104(b) of this title;

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office;

or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) Independent expenditure.—The term "independent expenditure" means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended.

(20) Federal election activity.—

(A) In general.—The term "Federal election activity" means—

- (i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;
- (ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);
- (iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or
- (iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

(B) Excluded activity.—The term "Federal election activity" does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

- (i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);
- (ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);
- (iii) the costs of a State, district, or local political convention; and
- (iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

(21) Generic campaign activity.—The term "generic campaign activity" means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

(22) Public communication.—The term "public communication" means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

(23) Mass mailing.—The term "mass mailing" means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(24) Telephone bank.—The term "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(25) Election cycle.—For purposes of sections 30116(i) and 30117 of this title and paragraph (26), the term "election cycle" means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(26) Personal funds.—The term "personal funds" means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

- (i) legal and rightful title; or
- (ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

- (i) a salary and other earned income from bona fide employment;
- (ii) dividends and proceeds from the sale of the candidate's stocks or other investments;
- (iii) bequests to the candidate;
- (iv) income from trusts established before the beginning of the election cycle;
- (v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;
- (vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and
- (vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

(Pub. L. 92–225, title III, §301, Feb. 7, 1972, 86 Stat. 11; Pub. L. 93–443, title II, §§201(a), 208(c)(1), Oct. 15, 1974, 88 Stat. 1272, 1286; Pub. L. 94–283, title I, §§102, 115(d), (h), May 11, 1976, 90 Stat. 478, 495, 496; Pub. L. 96–187, title I, §101, Jan. 8, 1980, 93 Stat. 1339; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106–346, §101(a) [title V, §502(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A-49; Pub. L. 107–155, title I,

CHAPTER 11

CAMPAIGN FINANCING

11.001	Declaration of policy.	11.22	Duties of local filing officer.
11.002	Construction.	11.23	Political groups and individuals; referendum questions.
11.01	Definitions.	11.24	Unlawful political contributions.
11.02	Determination of filing officer.	11.25	Unlawful political disbursements and obligations.
11.03	Nonapplicability.	11.26	Limitation on contributions.
11.04	Registration and voting drives.	11.265	Legislative campaign committees.
11.05	Registration of political committees, groups and individuals.	11.27	False reports and statements.
11.055	Filing fees.	11.29	Communications for political purposes.
11.06	Financial report information; application; funding procedure.	11.30	Attribution of political contributions, disbursements and communications.
11.07	Designation of agent by nonresident individuals, committees and groups.	11.31	Disbursement levels; calculation.
11.08	Reports by party committees.	11.32	Compensation for political advertisements.
11.09	Duplicate reports required in certain cases.	11.33	Use of government materials by candidates.
11.10	Campaign treasurers and campaign depositories.	11.34	Solicitation of contributions from candidates restricted.
11.12	Campaign contributions and disbursements; reports.	11.36	Political solicitation involving public officials and employees restricted.
11.14	Deposit of contributions.	11.37	Travel by public officers.
11.16	Campaign contributions and disbursements; restrictions.	11.38	Contributions and disbursements by corporations and cooperatives.
11.17	Treatment of loan guarantees.	11.40	Special privileges from public utilities.
11.18	Support committee.	11.60	Civil penalties.
11.185	Redirection of contributions made to conduits.	11.61	Criminal penalties; prosecution.
11.19	Dissolution of registrants; termination reports.	11.64	Defense fund authorized.
11.20	Filing requirements.	11.65	Donations to charitable organizations or school fund.
11.21	Duties of the government accountability board.	11.66	Elector may compel compliance.

NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 11, contains an extensive prefatory note explaining the changes.

Cross-reference: See definitions in s. 5.02.

Cross-reference: See also chs. GAB 1 and 6, Wis. adm. code.

11.001 Declaration of policy. (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

(3) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

History: 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177. Campaign finance in Wisconsin after *Buckley*, 1976 WLR 816. Decoding the Maze: Wisconsin's Campaign Finance Laws. Wittenwyler & Jensen. Wis. Law. Oct. 2014.

11.002 Construction. This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.

History: 1979 c. 328 ss. 9, 11.

11.01 Definitions. As used in this chapter:

(1) "Candidate" means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) "Charitable organization" means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) "Clearly identified", when used with reference to a communication in support of or in opposition to a candidate, means:

- (a) The candidate's name appears;
- (b) A photograph or drawing of the candidate appears; or
- (c) The identity of the candidate is apparent by unambiguous reference.

(4) "Committee" or "political committee" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements, whether or not engaged in activities which are exclusively political, except that a "committee" does not include a political "group" under this chapter.

(5) "Communications media" means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

(5m) "Conduit" means an individual who or an organization which receives a contribution of money and transfers the contribution to another individual or organization without exercising discretion as to the amount which is transferred and the individual to whom or organization to which the transfer is made.

(6) (a) Except as provided in par. (b), "contribution" means any of the following:

1. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1., whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1. other than by a registrant under s. 11.05, or as provided in s. 11.29.

7. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. 11.25 (2) (b), or by an individual for a purpose authorized under s. 11.25 (2) (b) if deposited in a campaign depository account.

(b) "Contribution" does not include any of the following:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for the services.

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

4. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

7. A gift, subscription, loan, advance, or deposit of anything of value received by a committee or group not organized exclu-

sively for political purposes that the group or committee does not utilize for political purposes.

8. Any cost incurred to conduct Internet activity for a political purpose by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

9. Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

(6L) "Corporation" includes a limited liability company.

(7) (a) Except as provided in par. (b), "disbursement" means any of the following:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. An expenditure authorized under s. 11.25 (2) (b) made from a campaign depository account.

5. Any payment for a communication to the general public for a political purpose by means of any broadcast, satellite communication, newspaper or other periodical publication, outdoor advertising facility, mass mailing, or mass telephoning to the general public, or any other form of advertising to the general public, except communications over the Internet by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13).

6. Any payment for the purchase or rental of an electronic-mail address list made at the direction of a registrant for a political purpose.

7. Any payment for an electronic-mail address list that is transferred to a registrant for a political purpose.

(b) "Disbursement" does not include any of the following:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

3. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for

a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

6. A communication or Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

7. Any cost incurred in covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, programmer or producer, Internet site, or newspaper or other periodical publication, including an Internet or electronic publication, except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

8. A nominal fee paid for a communication to the general public.

(8) "Filing officer" means the official or agency determined in accordance with s. 11.02.

(9) "Filing requirement" means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) "Group" or "political group" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) "Incurred obligation" means every express obligation to make any contribution or disbursement including every loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) "Intentionally" has the meaning given under s. 939.23.

(12m) "Internet activity" includes sending or forwarding an electronic message; providing a hyperlink or other direct access on a person's Internet site to an Internet site operated by another person; blogging; creating, maintaining, or hosting an Internet site; payment by a person of a nominal fee for the use of an Internet site operated by another person; or any other form of communication distributed over the Internet.

(12s) "Legislative campaign committee" means a committee which does not file an oath under s. 11.06 (7) organized in either house of the legislature to support candidates of a political party for legislative office.

(15) "Personal campaign committee" means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate's agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate's agent.

(16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a

candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

(b) A "political purpose" does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014), held that the definition of "political purposes," in sub. (16), is unconstitutionally vague and overbroad and requires a narrowing construction.

(17g) "Public access channel" means a PEG channel, as defined in s. 66.0420 (2) (s), that is used for public access purposes, but does not include a PEG channel that is used for governmental or educational purposes.

(17r) "Public access channel operator" means a person designated by a city, village, or town as responsible for the operation of a public access channel.

(18m) "Registrant" means an individual or organization registered under s. 11.05 with a filing officer.

(19) "Salary" means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31; 1983 a. 484, 491; 1985 a. 303; 1987 a. 370, 391; 1989 a. 192; 1993 a. 112; 1999 a. 83; 2001 a. 103, 109; 2005 a. 177; 2007 a. 42; 2013 a. 153.

It may be appropriate to consider context in determining whether a communication "expressly advocates" within the meaning of sub. (16) (a) 1. The Elections Board's attempt to apply a context-based standard of express advocacy was an unfair attempt at retroactive rule-making, without any express statutory grant of authority, and thus, a violation of due process. *Elections Board v. Wisconsin Manufacturers & Commerce*, 227 Wis. 2d 650, 597 N.W.2d 721 (1999), 98-0596.

The term "political purposes" is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99-2574.

The definition of "political purposes," which triggers PAC duties and other requirements and restrictions, is vague and overbroad in the sense meant by *Buckley v. Valeo*, 424 U.S. 1, and requires a limiting construction. As applied to political speakers other than candidates, their committees, and political parties, the statutory definition of "political purposes" in section 11.01(16) is limited to express advocacy and its functional equivalent. *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014).

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

11.02 Determination of filing officer. Except where the filing of duplicate reports or statements is specifically required by law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The "filing officer" for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The "filing officer" for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) Except as provided in sub. (3e), the "filing officer" for each candidate for local office and for each committee which or