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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO ELECTIONS -- DISCLOSURE OF POLITICAL CONTRIBUTIONS AND
EXPENDITURES

Introduced By: Representatives Blazewski, Fox, Ajello, Marcello, and Edwards

Date Introduced: February 28, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. The legislature hereby finds and declares as follows:

2 (1) The amount of money spent in elections by persons, business entities or political
3 action committees that are not coordinated with a candidate or political party is playing a greater
4 role in elections.

5 (2) The Supreme Court's decision in Citizens United v. FEC has accelerated these trends
6 by allowing unlimited political spending by outside groups via independent expenditures. This
7 spending is often extremely difficult or impossible to trace, being funneled through "shadow
8 groups" that are able to avoid many current campaign finance disclosure regulations.

9 (3) The legislature finds it to be in the public and governmental interest to revise Rhode
10 Island's campaign finance disclaimer and disclosure laws to keep pace with the aforementioned
11 developments and to protect and enhance core democratic values and maintain the integrity of
12 elections.

13 (i) The source of political spending is vital information for voters, allowing them to make
14 knowledgeable decisions at election time. Disclosure allows voters to properly weigh speakers
15 and messages based on their affiliations and other contexts, such as whether the speaker stands to
16 personally benefit from their advocated positions.

17 (ii) The United States Supreme Court has repeatedly upheld disclaimer and disclosure
18 provisions as constitutionally protected methods of improving the integrity of electoral processes

1 without unnecessarily restricting First Amendment free speech rights. The Court has noted that
2 these requirements “impose no ceiling on campaign related activities” (Buckley v. Valeo) and “do
3 not prevent anyone from speaking” (McConnell v. FEC). Whatever level of burden disclaimer
4 and disclosure do place on the ability to speak is justified by a valid government interest in
5 providing the electorate with information.

6 (iii) New communications technologies greatly increase the value and potential for
7 disclosure by making disclosed information easily available to the average citizen. This potential
8 should be embraced by encouraging electronic filing of campaign finance reports as much as is
9 practicable and making this information as accessible as possible. New media and technological
10 platforms also bring with them a risk of circumvention of existing regulation by funneling money
11 through mediums unaddressed by extant law. Extension of disclaimer laws to new media will
12 ensure that the interests bolstered by disclosure and disclaimer remain well supported.

13 (iv) By bringing political spending out into the light, stronger, modernized disclaimer and
14 disclosure rules can serve as a powerful check on actual government corruption as well as reduce
15 the perception of corruption. Armed with information about political spending, citizens can better
16 detect improper political favors and then use this knowledge to hold those politicians accountable
17 at the ballot box. By preventing the flooding of elections with untraceable money, these rules will
18 leave the public with less reason to perceive “bought elections” in which the outcome is
19 determined by outside or even out-of-state groups. Thus, improved disclosure and disclaimer laws
20 can help restore citizen trust in government.

21 (v) Disclaimer and disclosure can also further the rights and interests of shareholders and
22 group members. In both cases, an organization acts in a role representing its constituents’
23 interests, including in its political actions. However, if information on a group’s spending is not
24 disclosed to members and shareholders, their interests are compromised as they may support or
25 oppose certain political spending but not be made aware of the spending being done in their
26 names.

27 (vi) At present, spending between the final pre-election filing date and election day is
28 hidden from public view until after the election is over. This deprives voters of knowledge when
29 it would be most relevant to their decision-making and reduces disclosure’s effectiveness in
30 promoting accountability in the political process.

31 (vii) Stronger disclosure rules can also assist in the gathering of information necessary to
32 avoid circumvention of other existing rules. Existing law, such as bans on campaign contributions
33 by foreign nationals and contribution limits, rely on the type of transparency in political spending
34 that these regulations would create.

1 SECTION 2. Section 17-25-3 of the General Laws in Chapter 17-25 entitled "Rhode
2 Island Campaign Contributions and Expenditures Reporting" is hereby amended to read as
3 follows:

4 **17-25-3. Definitions.** -- As used in this chapter, unless a different meaning clearly
5 appears from the context:

6 (1) "Business entity" means any corporation, whether for profit or not for profit,
7 domestic corporation or foreign corporation, as defined in section 7-1.2-106, financial institution,
8 cooperative, association, receivership, trust, holding company, firm, joint stock company, public
9 utility, sole proprietorship, partnership, limited partnership, or any other entity recognized by the
10 laws of the United States and/or the state of Rhode Island for the purpose of doing business. The
11 term "business entity" shall not include a political action committee organized pursuant to this
12 chapter or a political party committee or an authorized campaign committee of a candidate or
13 office holder. [The term "business entity" shall not include any exempt nonprofit as defined herein](#)
14 [or any organization described in section 501\(c\)\(3\) of the Internal Revenue Code of 1986, or any](#)
15 [subsequent corresponding internal revenue code of the United States, as amended from time to](#)
16 [time, for the purposes of chapter 17-25.3 of the general laws only.](#)

17 (2) "Candidate" means any individual who undertakes any action, whether preliminary or
18 final, which is necessary under the law to qualify for nomination for election or election to public
19 office, and/or any individual who receives a contribution or makes an expenditure, or gives his or
20 her consent for any other person to receive a contribution or make an expenditure, with a view to
21 bringing about his or her nomination or election to any public office, whether or not the specific
22 public office for which he or she will seek nomination or election is known at the time the
23 contribution is received or the expenditure is made and whether or not he or she has announced
24 his or her candidacy or filed a declaration of candidacy at that time.

25 (3) "Contributions" and "expenditures" include all transfers of money, credit or debit
26 card transactions on-line or electronic payment systems such as "pay pal," paid personal services,
27 or other thing of value to or by any candidate, committee of a political party, or political action
28 committee or ballot question advocate. A loan shall be considered a contribution of money until it
29 is repaid.

30 (4) "Election" means any primary, general, or special election or town meeting for any
31 public office of the state, municipality, or district or for the determination of any question
32 submitted to the voters of the state, municipality, or district.

33 (5) "Election cycle" means the twenty-four (24) month period commencing on January 1
34 of odd number years and ending on December 31 of even number years; provided, with respect to

1 the public financing of election campaigns of general officers under sections 17-25-19, 17-25-20,
2 and 17-25-25, "election cycle" means the forty-eight (48) month period commencing on January
3 1 of odd numbered years and ending December 31 of even numbered years.

4 (6) "In-Kind Contributions" means the monetary value of other things of value or paid
5 personal services donated to, or benefiting, any person required to file reports with the board of
6 elections.

7 (7) "Other thing of value" means any item of tangible real or personal property of a fair
8 market value in excess of one hundred dollars (\$100).

9 (8) "Paid personal services" means personal services of every kind and nature, the cost or
10 consideration for which is paid or provided by someone other than the committee or candidate for
11 whom the services are rendered, but shall not include personal services provided without
12 compensation by persons volunteering their time.

13 (9) "Person" means an individual, partnership, committee, association, corporation,
14 [union, charity](#) and/or any other organization. [The term "person" shall not include any exempt](#)
15 [nonprofit as defined herein or any organization described in section 501\(c\)\(3\) of the Internal](#)
16 [Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United](#)
17 [States, as amended from time to time, for the purposes of chapter 17-25.3 of the general laws](#)
18 [only.](#)

19 (10) "Political action committee" means any group of two (2) or more persons that
20 accepts any contributions to be used for advocating the election or defeat of any candidate or
21 candidates. Only political action committees that have accepted contributions from fifteen (15) or
22 more persons in amounts of ten dollars (\$10.00) or more within an election cycle shall be
23 permitted to make contributions, and those committees must make contributions to at least five
24 (5) candidates for state or local office within an election cycle.

25 (11) "Public office" means any state, municipal, school, or district office or other
26 position that is filled by popular election, except political party offices. "Political party offices"
27 means any state, city, town, ward, or representative or senatorial district committee office of a
28 political party or delegate to a political party convention, or any similar office.

29 (12) "State" means state of Rhode Island.

30 (13) "Testimonial affair" means an affair of any kind or nature including, but not limited
31 to, cocktail parties, breakfasts, luncheons, dinners, dances, picnics, or similar affairs expressly
32 and directly intended to raise campaign funds in behalf of a candidate to be used for nomination
33 or election to a public office in this state, or expressly and directly intended to raise funds in
34 behalf of any state or municipal committee of a political party, or expressly and directly intended

1 to raise funds in behalf of any political action committee.

2 (14) "Electioneering communication" means any print, broadcast, cable, satellite, or
3 electronic media communication not coordinated, as set forth in section 17-25-23, with any
4 candidate, authorized candidate campaign committee, or political party committee and which
5 unambiguously identifies a candidate or referendum and is made either within sixty (60) days
6 before a general or special election or town meeting for the office sought by the candidate or
7 referendum; or thirty (30) days before a primary election, for the office sought by the candidate;
8 and is targeted to the relevant electorate.

9 (i) A communication which refers to a clearly identified candidate or referendum is
10 "targeted to the relevant electorate" if the communication can be received by two thousand
11 (2,000) or more persons in the district the candidate seeks to represent or the constituency voting
12 on the referendum.

13 (ii) Exceptions: The term "electioneering communication" does not include:

14 (A) A communication appearing in a news story, commentary, or editorial distributed
15 through the facilities of any broadcasting station, unless such facilities are owned or controlled by
16 any political party, political committee, or candidate;

17 (B) A communication which constitutes a candidate debate or forum conducted pursuant
18 to regulations adopted by the board of elections or which solely promotes such a debate or forum
19 and is made by or on behalf of the person sponsoring the debate or forum; or

20 (C) A communication made by any business entity to its members, owners, stockholders,
21 or employees;

22 (D) A communication over the Internet, except for (I) Communications placed for a fee
23 on the website of another person, business entity, or political action committee; and (II) Websites
24 formed primarily for the purpose, or whose primary purpose is, to expressly advocate the election
25 or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

26 (E) Any other communication exempted under such regulations as the board of elections
27 may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate
28 implementation of this paragraph.

29 (15) "Independent expenditure" means an expenditure which, when taken as a whole,
30 expressly advocates the election or defeat of a clearly identified candidate, or the passage or
31 defeat of a referendum, or amounts to the functional equivalent of such express advocacy, and is
32 in no way coordinated, as set forth in section 17-25-23, with any candidate's campaign,
33 authorized candidate committee, or political party committee. An expenditure amounts to the
34 functional equivalent of express advocacy if it can only be interpreted by a reasonable person as

1 advocating the election, passage, or defeat of a candidate or referendum, taking into account
2 whether the communication mentions a candidate or referendum and takes a position on a
3 candidate's character, qualifications, or fitness for office. An independent expenditure is not a
4 contribution to that candidate or committee.

5 (i) Exceptions: The term "independent expenditure" does not include:

6 (A) A communication appearing in a news story, commentary, or editorial distributed
7 through the facilities of any broadcasting station, unless such facilities are owned or controlled by
8 any political party, political committee, or candidate;

9 (B) A communication which constitutes a candidate debate or forum conducted pursuant
10 to regulations adopted by the board of elections or which solely promotes such a debate or forum
11 and is made by or on behalf of the person sponsoring the debate or forum;

12 (C) A communication made by any business entity to its members, owners, stockholders,
13 or employees;

14 (D) A communication over the Internet, except for (I) Communications placed for a fee
15 on the website of another person, business entity, or political action committee; and (II) Websites
16 formed primarily for the purpose, or whose primary purpose is, to expressly advocates the
17 election or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

18 (E) Any other communication exempted under such regulations as the board of elections
19 may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate
20 implementation of this paragraph.

21 (16) "Covered transfer" means any transfer or payment of funds by any person, business
22 entity or political action committee to another person, business entity, or political action
23 committee if the person, business entity, or political action committee making the transfer: (i)
24 Designates, requests, or suggests that the amounts be used for independent expenditures or
25 electioneering communications or making a transfer to another person for the purpose of making
26 or paying for such independent expenditures or electioneering communications; (ii) Made such
27 transfer or payment in response to a solicitation or other request for a transfer or payment for the
28 making of or paying for independent expenditures or electioneering communications or making a
29 transfer to another person for the purpose of marking or paying for such independent expenditures
30 or electioneering communications; (iii) Engaged in discussions with the recipient of the transfer
31 or payment regarding independent expenditures or electioneering communications or making a
32 transfer to another person for the purpose of marking or paying for such independent expenditures
33 or electioneering communications; or (iv) Made independent expenditures or electioneering
34 communications in an aggregate amount of \$5,000 or more during the two (2) year period ending

1 on the date of the transfer or payment, or knew or had reason to know that the person receiving
2 the transfer or payment made such independent expenditures or electioneering communications in
3 such an aggregate amount during that two (2) year period.

4 (A) Exceptions: The term "covered transfer" does not include:

5 (I) A transfer or payment made by a person, business entity or political action committee
6 in the ordinary course of any trade or business conducted by the person, business entity or
7 political action committee or in the form of investments made by the person, business entity or
8 political action committee; or

9 (II) A transfer or payment made by a person, business entity or political action committee
10 if the person, business entity or political action committee making the transfer prohibited, in
11 writing, the use of such transfer or payment for independent expenditures, electioneering
12 communications, or covered transfers and the recipient of the transfer or payment agreed to
13 follow the prohibition and deposited the transfer or payment in an account which is segregated
14 from any account used to make independent expenditures, electioneering communications, or
15 covered transfers.

16 (17) For the purposes of chapter 17-25.3 of the general laws, "donation" means all
17 transfers of money, credit or debit card transactions on-line or electronic payment systems such as
18 "pay pal," paid personal services, or other thing of value to or by any person, business entity, or
19 political action committee. A loan shall be considered a donation of money until it is repaid.

20 (18) For the purposes of chapter 17-25.3 of the general laws, "donor" means a person,
21 business entity, or political action committee that makes a donation.

22 (19) "Exempt nonprofit" means any organization described in section 501(c)(4) of the
23 Internal Revenue Code that spends an aggregate annual amount of no more than ten percent
24 (10%) of its annual expenses or no more than fifteen thousand dollars (\$15,000), whichever is
25 less, on independent expenditures, electioneering communications, and covered transfers as
26 defined herein and certifies the same to the board of elections seven (7) days before and after a
27 primary election and seven (7) days before and after a general or special election.

28 SECTION 3. Title 17 of the General Laws entitled "ELECTIONS" is hereby amended by
29 adding thereto the following chapter:

30 CHAPTER 25.3

31 INDEPENDENT EXPENDITURES AND ELECTIONEERING COMMUNICATIONS

32 **17-25.3-1. Independent expenditures and electioneering communications for**
33 **elections.** – (a) It shall be lawful for any person, business entity or political action committee, not
34 otherwise prohibited by law and not acting in coordination with a candidate, authorized candidate

1 campaign committee, political action committee, or political party committee, to expend
2 personally from that person's own funds a sum which is not to be repaid to him or her for any
3 purpose not prohibited by law to support or defeat a candidate or referendum. Whether a person,
4 business entity or political action committee is "acting in coordination with a candidate,
5 authorized candidate campaign committee, political action committee or political party
6 committee" for the purposes of this subsection shall be determined by application of the standards
7 set forth in section 17-25-23. All terms used in this chapter shall have the same meaning as
8 defined in section 17-25-3.

9 (b) Any person, business entity or political action committee making independent
10 expenditures, electioneering communications, or covered transfers shall report all such campaign
11 finance expenditures and expenses to the board of elections, provided the total of the money so
12 expended exceeds one thousand dollars (\$1000) within a calendar year, to the board of elections
13 within seven (7) days of making the expenditure.

14 (c) A person, business entity or political action committee who makes or contracts to
15 make independent expenditures, electioneering communications, or covered transfers with an
16 aggregate value of one thousand dollars (\$1,000) or more shall electronically file a campaign
17 finance report to the board of elections describing the expenditures within twenty-four (24) hours.

18 (d) After a person, business entity or political action committee files a report under
19 subsection (b), the person, business entity or political action committee shall file an additional
20 report within twenty-four (24) hours after each time the person, business entity or political action
21 committee makes or contracts to make independent expenditures, electioneering communications,
22 or covered transfers aggregating an additional one thousand dollars (\$1,000) with respect to the
23 same election as that to which the initial report relates.

24 (e) Reports of independent expenditures, electioneering communications, or covered
25 transfers by a person shall contain the name, street address, city, state, zip code, occupation,
26 employer (if self-employed, the name and place of business), of the person responsible for the
27 expenditure, the name, street address, city, state, and zip code of the person receiving the
28 expenditure the date and amount of each expenditure, and the year to date total.

29 (1) The report shall also include a statement identifying the candidate or referendum that
30 the independent expenditure or electioneering communication is intended to promote the success
31 or defeat, and affirm under penalty of false statement that the expenditure is not coordinated with
32 the campaign in question, and provide any information that the board of elections requires to
33 facilitate compliance with the provisions of this chapter.

34 (f) Reports of independent expenditures, electioneering communications, or covered

1 transfers by a person, business entity or political action committee shall also disclose the identity
2 of all donors of an aggregate of at least one thousand dollars (\$1000) to such person, business
3 entity or committee within the past twelve (12) months, if applicable, unless the person, business
4 entity or political action committee has established a separate campaign-related account for
5 independent expenditures, electioneering communications, and covered transfers as detailed in
6 section 17-25.3-2 in which case this paragraph applies only to donors to the person's, business
7 entity's or political action committee's separate campaign-related account; provided that no
8 person, business entity, or political action committee shall be required to disclose in a report to
9 the board of elections the identity, which includes name, address, place of employment, and
10 donation amount, of any donor who makes no donation to such person, business entity, or
11 political action committee after the date of enactment of this section.

12 (g) If a person, business entity or political action committee and a donor mutually agree,
13 at the time a donation, payment, or transfer to the person, business entity or political action
14 committee which is required to disclose the identification under subsection (f) that the person,
15 business entity or political action committee will not use the donation, payment, or transfer for
16 independent expenditures, electioneering communications, or covered transfers, then not later
17 than thirty (30) days after the person, business entity or political action committee receives the
18 donation, payment, or transfer the person, business entity or political action committee shall
19 transmit to the donor a written certification by the chief financial officer of the person, business
20 entity or political action committee (or, if the organization does not have a chief financial officer,
21 the highest ranking financial official of the organization) that:

22 (1) The person, business entity or political action committee will not use the donation,
23 payment, or transfer for independent expenditures, electioneering communications, or covered
24 transfers; and

25 (2) The person, business entity or political action committee will not include any
26 information on the donor in any report filed by the person, business entity or political action
27 committee under this section with respect to independent expenditures, electioneering
28 communications, or covered transfers, so that the donor will not be required to appear in the list
29 of donors.

30 (3) Exception for payments made pursuant to commercial activities. Subsections (e) and
31 (f) do not apply with respect to any payment or transfer made pursuant to commercial activities in
32 the regular course of a person's, business entity's or political action committee's business.

33 (h) For the purposes of this chapter, two (2) or more entities (other than an exempt
34 nonprofit as defined in section 17-25-3 or an organization described in section 501(c)(3) of the

1 Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the
2 United States, as amended from time to time) are treated as a single entity if the entities:

3 (1) Share the majority of members on their boards of directors;

4 (2) Share two (2) or more officers;

5 (3) A candidate committee and a political committee other than a candidate committee
6 are for the purposes of this section treated as a single committee if the committees both have the
7 candidate or a member of the candidate's immediate family as an officer;

8 (4) Are owned or controlled by the same majority shareholder or shareholders or persons;

9 (5) Are in a parent-subsidiary relationship; or

10 (6) Have bylaws so stating.

11 **17-25.3-2. Optional use of separate campaign-related account by person, business**
12 **entity or political action committee for independent expenditures, electioneering**
13 **communications, and covered transfers.** – (a)(1) Establishment of account: (i) In general, at its

14 option, a person, business entity or political action committee may make disbursements for
15 independent expenditures, electioneering communications, or covered transfers using amounts
16 from a bank account established and controlled by the person, business entity or political action
17 committee to be known as the separate campaign-related account (hereafter in this section
18 referred to as the “account”), which shall be maintained separately from all other accounts of the
19 person, business entity or political action committee and which shall consist exclusively of funds
20 that were paid directly to such account by one or more person, business entity, or political action
21 committee other than the person, business entity, or political action committee that controls the
22 account. A person, business entity, or political action committee shall not make transfers from its
23 general treasury into an account established under this section that such person, business entity,
24 or political action committee controls.

25 (ii) Mandatory use of account after establishment. If a person, business entity or political
26 action committee establishes an account under this section, it may not make disbursements for
27 independent expenditures, electioneering communications, or covered transfers from any source
28 other than amounts from the account.

29 (iii) Exclusive use of account for independent expenditures, electioneering
30 communications, and covered transfers. Amounts in the account shall be used exclusively for
31 disbursements by the person, business entity or political action committee for independent
32 expenditures, electioneering communications, or covered transfers. After such disbursements are
33 made, information with respect to deposits made to the account shall be disclosed in accordance
34 with subsection 17-25.3-1(f).

1 17-25.3-3. Disclaimers. – (a) No person, business entity or political action committee
2 shall make or incur an independent expenditure or fund an electioneering communication for any
3 written, typed, or other printed communication, unless such communication bears upon its face
4 the words "Paid for by" and the name of the entity, the name of its chief executive officer or
5 equivalent, and its principal business address. In the case of a person, business entity or political
6 action committee making or incurring such an independent expenditure or electioneering
7 communication, which entity is a tax-exempt organization under Section 501(c) of the Internal
8 Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code)
9 or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal
10 revenue code of the United States, as amended from time to time, or an organization organized
11 under Section 527 of said code, such communication shall also bear upon its face the words "Top
12 Five Donors" followed by a list of the five (5) persons or entities making the largest aggregate
13 donations to such person, business entity or political action committee during the twelve (12)
14 month period before the date of such communication, provided that no donor shall be listed who
15 is not required to be disclosed in a report to the board of elections by the person, business entity,
16 or political action committee.

17 (b) The provisions of subsections (a) of this section shall not apply to:

18 (1) Any editorial, news story, or commentary published in any newspaper, magazine or
19 journal on its own behalf and upon its own responsibility and for which it does not charge or
20 receive any compensation whatsoever;

21 (2) Political paraphernalia including pins, buttons, badges, emblems, hats, bumper
22 stickers or other similar materials; or

23 (3) Signs or banners with a surface area of not more than thirty-two (32) square feet.

24 (c) No person, business entity or political action committee shall make or incur an
25 independent expenditure or fund an electioneering communication for paid television advertising
26 or paid Internet video advertising, unless at the end of such advertising there appears
27 simultaneously, for a period of not less than four (4) seconds:

28 (1) A clearly identifiable video, photographic or similar image of the entity's chief
29 executive officer or equivalent; and

30 (2) A personal audio message, in the following form: "I am (name of entity's chief
31 executive officer or equivalent), (title) of (entity), and I approved its content."

32 (3) In the case of a person, business entity or political action committee making or
33 incurring such an independent expenditure or electioneering communication, which person,
34 business entity or political action committee is a tax-exempt organization under Section 501(c) of

1 the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of
2 such Code) or an exempt nonprofit as defined in section 17-25-3, or any subsequent
3 corresponding internal revenue code of the United States, as amended from time to time, or an
4 organization organized under Section 527 of said code, such advertising shall also include a
5 written message in the following form: "The top five (5) donors to the organization responsible
6 for this advertisement are" followed by a list of the five (5) persons or entities making the largest
7 aggregate donations during the twelve (12) month period before the date of such advertisement,
8 provided that no donor shall be listed who is not required to be disclosed in a report to the board
9 of elections by the person, business entity, or political action committee.

10 (d) No person, business entity or political action committee shall make or incur an
11 independent expenditure or fund an electioneering communication for paid radio advertising or
12 paid Internet audio advertising, unless the advertising ends with a personal audio statement by the
13 entity's chief executive officer or equivalent;

14 (1) Identifying the entity paying for the expenditure; and

15 (2) A personal audio message, in the following form: "I am (name of entity's chief
16 executive officer or equivalent), (title), of (entity), and I approved its content."

17 (3) In the case of a person, business entity or political action committee making or
18 incurring such an independent expenditure or electioneering communication, which entity is a
19 tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 (other than
20 an organization described in section 501(c)(3) of such Code) or an exempt nonprofit as defined in
21 section 17-25-3, or any subsequent corresponding internal revenue code of the United States, as
22 amended from time to time, or an organization organized under Section 527 of said code, such
23 advertising shall also include:

24 (A) An audio message in the following form: "The top five (5) donors to the organization
25 responsible for this advertisement are" followed by a list of the five (5) persons or entities making
26 the largest aggregate donations during the twelve (12) month period before the date of such
27 advertisement, provided that no donor shall be listed who is not required to be disclosed in a
28 report to the board of elections by the person, business entity, or political action committee; or

29 (B) In the case of such an advertisement that is thirty (30) seconds in duration or shorter,
30 an audio message providing a website address that lists such five (5) persons or entities, provided
31 that no contributor shall be listed who is not required to be disclosed in a report to the board of
32 elections by the person, business entity, or political action committee. In such case, the person,
33 business entity or political action committee shall establish and maintain such a website with such
34 listing for the entire period during which such person, business entity or political action

1 committee makes such advertisement.

2 (e) No person, business entity or political action committee shall make or incur an
3 independent expenditure or fund an electioneering communication for automated telephone calls,
4 unless the narrative of the telephone call identifies the person, business entity or political action
5 committee making the expenditure and its chief executive officer or equivalent. In the case of a
6 person, business entity or political action committee making or incurring such an independent
7 expenditure, which entity is a tax-exempt organization under Section 501(c) of the Internal
8 Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code)
9 or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal
10 revenue code of the United States, as amended from time to time, or an organization organized
11 under Section 527 of said code, such narrative shall also include an audio message in the
12 following form: "The top five (5) donors to the organization responsible for this telephone call
13 are" followed by a list of the five (5) persons or entities making the largest aggregate donations
14 during the twelve (12) month period before the date of such telephone call, provided that no
15 donor shall be listed who is not required to be disclosed in a report to the board of elections by the
16 person, business entity, or political action committee.

17 **17-25.3-4. Penalties. –** (a) Any person who willfully and knowingly violates the
18 provisions of this chapter and makes independent expenditures, electioneering communications,
19 or covered transfers in an aggregate amount of ten thousand dollars (\$10,000) or more during the
20 twelve (12) month period on or before the date of such violation shall, upon conviction, be guilty
21 of a felony and shall be fined not more than \$10,000 per violation or up to one hundred percent
22 (100%) of the aggregate amount of such independent expenditures, electioneering
23 communications, or covered transfers per violation, whichever is greater.

24 (b) Any person who willfully and knowingly violates the provisions of this chapter and
25 makes independent expenditures, electioneering communications, or covered transfers in an
26 aggregate amount of less than ten thousand dollars (\$10,000) during the twelve (12) month period
27 on or before the date of such violation shall, upon conviction, be guilty of a misdemeanor and
28 shall be fined not more than one thousand dollars (\$1,000) per violation.

29 (c) The state board of elections may impose a civil penalty upon any person, business
30 entity, or political action committee who violates the provisions of this chapter in an amount not
31 more than one thousand dollars (\$1,000) or up to one hundred percent (100%) of the aggregate
32 amount of the independent expenditures, electioneering communications, or covered transfers per
33 violation, whichever is greater.

34 SECTION 4. Section 17-25.2-3 of the General Laws in Chapter 17-25.2 entitled "Ballot

1 Question Advocacy and Reporting" is hereby amended to read as follows:

2 **17-25.2-3. Definitions.** -- As used in this chapter, unless a different meaning clearly
3 appears from the context:

4 (1) "Ballot question" means any question, charter change, constitutional amendment,
5 referendum or voter initiated petition placed on any state, district, city, town or municipal ballot
6 for a general or special election.

7 (2) "Ballot question advocacy" means advocating the passage or defeat of a ballot
8 question.

9 (3) "Ballot question advocate" means [any exempt nonprofit as defined in section 17-25-3](#)
10 [or any organization described under section 501\(c\)\(3\) of the Internal Revenue Code of 1986, or](#)
11 [any subsequent corresponding internal revenue code of the United States](#) ~~any person~~ making an
12 expenditure with a cumulative total that exceeds one thousand dollars (\$1,000) in a calendar year
13 for ballot-question advocacy on a particular ballot question.

14 (4) "Contributions" means donations to a ballot-question advocate in the form of money,
15 gifts, loans, paid personal services, or in-kind contributions as defined herein.

16 (5) "In-Kind Contributions" means the monetary value of other things of value or paid
17 personal services donated to any person required to file reports with the board of elections, except
18 for newsletters and other communications paid for and transmitted by an organization to its own
19 members and not to the general public;

20 (6) "Paid personal services" means personal services of every kind and nature, the cost or
21 consideration for which is paid or provided by someone other than the ballot-question advocate
22 for whom the services are rendered, but shall not include personal services provided without
23 compensation by persons volunteering their time.

24 (7) "Expenditures" means the payment for any goods and services for the purpose of
25 ballot-question advocacy as set forth in this paragraph:

26 (i) Any media advertising services or products, including, but not limited to, newspapers,
27 radio stations or television stations;

28 (ii) General advertising in letters, brochures, flyers, handbills, lawn signs, posters,
29 bumper stickers, buttons or other materials except for newsletters and other communications paid
30 for and transmitted by an organization to its own members and not to the general public; or

31 (iii) Paid personal services donated to any ballot-question advocate including advertising
32 agency services or other professional services including accounting services, printing, secretarial
33 services, public opinion polls, research and professional campaign consultation or management,
34 media production or computer services. A written contract, agreement or promise to make an

1 expenditure, is an expenditure as of the date such contract expenditure or obligation is made.

2 (8) "Person" means any individual, partnership, committee, association, corporation,
3 city, town, or other governmental unit and any other organization.

4 (9) "Election cycle" means the twenty-four (24) month period commencing on January 1
5 of odd number years and ending on December 31 of even number years.

6 SECTION 5. Severability. If any provision of this act or amendment made by this act, or
7 the application of a provision or amendment to any person or circumstance, is held to be
8 unconstitutional, the remainder of this act and amendments made by this act, and the application
9 of the provisions and amendment to any person or circumstance, shall not be affected by the
10 holding.

11 SECTION 6. This act shall take effect upon passage.

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LC02090/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ELECTIONS -- DISCLOSURE OF POLITICAL CONTRIBUTIONS AND
EXPENDITURES

- 1 This act would impose a regulatory structure relating to the sources of political spending.
- 2 This act would take effect upon passage.

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LC02090/SUB A/2
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