Testimony of
Robert S. LaBrant
Senior Vice President and General Counsel
Michigan Chamber of Commerce
on HB 4239
Before the
House Ethics and Election Committee
on March 6, 2007

Mr. Chairman and members of the Committee:

Each election cycle generates a heavy volume of automated political phone calls that have infuriated countless voters.

Whether robo calls are done by Republicans or Democrats, are positive or negative, mean spirited or humorous, hundreds of thousands of Michiganians are sick of them.

Many are hanging up as soon as the recording begins or screening them out with caller ID.

Up till now robo calls have escaped the identification and disclaimer requirements of the Michigan Campaign Finance Act.

HB 4239 corrects that omission and imposes the same requirements for robo calls that the Act currently requires for a radio ad.

My only suggestion would be to require that the disclaimer which identifies the person paying for the automated call be placed at the beginning of the message.

Too often the robo call begins: "Hello, I'm calling with information about John Doe." The call then proceeds to give negative information about John Doe on various issues. But many people hang up after the first line mistakenly believing they've been called once again by that pestering John Doe Campaign.

Recently six states have enacted legislation to extend their state's do-not-call law to automated political calls. Arkansas, Indiana, Minnesota, Montana, North Dakota and Wyoming currently have laws regulating robo calls.

Michigan may eventually want to follow their lead. However, that does not eliminate the need to enact HB 4239 now. Not everyone will follow through to be placed on the state's do-not-call registry.

HB 4239 also adds Section 48 to add to the identification and disclaimer requirements to website communication and email.

Finally in 2002 Congress enacted the McCain-Feingold Act amending the Federal Election Campaign Act. That legislation required federal candidates to appear in their own radio or TV ads and state:

"I am _____ and I approved this message."
(Name of Candidate)

This "stand by your ad" requirement is incorporated into Section 47 by HB 4239.

As new technology and mediums of communication emerge, the Michigan's Campaign Finance Act needs to keep pace and incorporate those changes into the Act. HB 4239 is designed to do just that.

HOUSE BILL No. 4239

February 7, 2007, Introduced by Reps. Sak, Byrnes, LeBlanc, Brown, Tobocman, Young, Marleau, Opsommer and Dean and referred to the Committee on Ethics and Elections.

A bill to amend 1976 PA 388, entitled

"Michigan campaign finance act,"

by amending section 47 (MCL 169.247), as amended by 2001 PA 250, and by adding section 48.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47. (1) Except as otherwise provided in this subsection
2 and subject to subsections (3) and (4), a billboard, placard,
3 poster, pamphlet, or other printed matter having reference to an
4 election, a candidate, or a ballot question, shall bear upon it
5 the name and address of the person paying for the matter. Except
6 as otherwise provided in this subsection and subject to
7 subsections (3) and (4), if the printed matter relating to a

HOUSE BILL No. 4239

1 candidate is an independent expenditure that is not authorized in
2 writing by the candidate committee of that candidate, the printed
3 matter shall contain the following disclaimer: "Not authorized by
4 any candidate committee". An individual other than a candidate is
5 not subject to this subsection if the individual is acting
6 independently and not acting as an agent for a candidate or any
7 committee.

8 (2) A radio or television paid advertisement having
9 reference to an election, a candidate, or a ballot question shall
10 identify the sponsoring person as required by the federal
11 communications commission, shall bear the name of the person
12 paying for the advertisement, and shall be in compliance with
13 subsection (3) and with the following:

14 (a) If the radio or television paid advertisement relates to
15 a candidate and is an independent expenditure, the advertisement
16 shall contain the following disclaimer: "Not authorized by any
17 candidate".

18 (b) If the radio or television paid advertisement relates to
19 a candidate and is not an independent expenditure but is paid for
20 by a person other than the candidate to which it is related, the
21 advertisement shall contain the following disclaimer:

22 ~~"Authorized by .....".~~
23 ~~(name of candidate or name of candidate committee)~~

24 **"I AM _____ AND I APPROVE THIS MESSAGE.".**
25 **(NAME OF CANDIDATE)**

26 (3) The size and placement of an identification or

1 disclaimer required by this section shall be determined by rules
2 promulgated by the secretary of state. The rules may exempt
3 printed matter and certain other items such as campaign buttons
4 or balloons, the size of which makes it unreasonable to add an
5 identification or disclaimer, from the identification or
6 disclaimer required by this section.
7 (4) Except for a candidate committee's printed matter or
8 radio or television paid advertisements, each identification or
9 disclaimer required by this section shall also indicate that the
10 printed matter or radio or television paid advertisement is paid
11 for "with regulated funds". Printed matter or a radio or
12 television paid advertisement that is not subject to this act
13 shall not bear the statement required by this subsection.
14 (5) A person who knowingly violates this section is guilty
15 of a misdemeanor punishable by a fine of not more than $1,000.00,
16 or imprisonment for not more than 93 days, or both.
17 **SEC. 48. (1) A COMMUNICATION RELATING TO A CANDIDATE THAT IS**
18 **DESIGNED TO CONTACT ELECTORS THROUGH TELEPHONIC, ELECTRONIC MAIL,**
19 **OR OTHER ELECTRONIC MEANS AND TO WHICH SECTION 47 DOES NOT APPLY**
20 **SHALL CLEARLY STATE THE NAME OF THE PERSON PAYING FOR THE**
21 **COMMUNICATION.**
22 **(2) IF THE COMMUNICATION DESCRIBED IN SUBSECTION (1) RELATES**
23 **TO A CANDIDATE AND IS AN INDEPENDENT EXPENDITURE NOT AUTHORIZED**
24 **IN WRITING BY THAT CANDIDATE'S CANDIDATE COMMITTEE, THE**
25 **COMMUNICATION SHALL ALSO CLEARLY STATE THE FOLLOWING DISCLAIMER:**
26 **"NOT AUTHORIZED BY ANY CANDIDATE COMMITTEE". IF THE COMMUNICATION**
27 **DESCRIBED IN SUBSECTION (1) RELATES TO A CANDIDATE AND IS NOT AN**

1 INDEPENDENT EXPENDITURE, BUT IS PAID FOR BY A PERSON OTHER THAN
2 THE CANDIDATE TO WHOM IT IS RELATED, THE COMMUNICATION SHALL ALSO
3 CLEARLY STATE THE FOLLOWING DISCLAIMER:

4 "AUTHORIZED BY _____".
5 (NAME OF CANDIDATE OR NAME OF CANDIDATE COMMITTEE)

6 (3) FOR A VISUAL COMMUNICATION GOVERNED BY THIS SECTION, THE
7 SECRETARY OF STATE SHALL PROMULGATE RULES REGULATING THE SIZE AND
8 PLACEMENT OF AN IDENTIFICATION OR DISCLAIMER REQUIRED BY THIS
9 SECTION.

10 (4) A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY
11 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90
12 DAYS OR A FINE OF NOT MORE THAN $500.00, OR BOTH.

13 Enacting section 1. This amendatory act takes effect January
14 31, 2009.