

HOUSE JOINT RESOLUTION O

March 12, 2013, Introduced by Reps. Lamonte, Ananich, LaVoy, Brinks, Singh, Faris, Smiley, Knezek, Brunner, Greimel, Segal, Barnett, Hovey-Wright, Banks, Roberts, McCann, Brown, Townsend, Irwin, Dillon, Zemke, Switalski, Yanez, Kosowski, Hobbs, Tlaib, Driskell, Cavanagh, Kandrevas, Schor, Slavens, Lipton and Abed and referred to the Committee on Elections and Ethics.

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 11 to article II, to add accountability and disclosure of corporate political and lobbying activity.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to add accountability and disclosure of corporate political and lobbying activity, is proposed, agreed to, and submitted to the people of the state:

ARTICLE II

SEC. 11. THE PEOPLE OF THE STATE OF MICHIGAN DECLARE THAT THEY

1 HAVE A RIGHT TO KNOW WHEN CORPORATIONS SPEND MONEY TO INFLUENCE
2 ELECTIONS OR GOVERNMENT OFFICIALS SO THEY CAN MAKE INFORMED
3 DECISIONS AND HOLD THEIR LEADERS ACCOUNTABLE. THIS SECTION SHALL BE
4 LIBERALLY CONSTRUED TO FURTHER THESE PURPOSES.

5 (1) CORPORATIONS MAKING A POLITICAL EXPENDITURE USING
6 CORPORATE FUNDS SHALL ELECTRONICALLY FILE WITH THE SECRETARY OF
7 STATE A REPORT THAT INCLUDES THE CORPORATION'S NAME, ADDRESS,
8 TELEPHONE NUMBER, AND PRINCIPAL PLACE OF BUSINESS; THE DATE,
9 AMOUNT, AND MEDIUM OF THE EXPENDITURE; THE OFFICEHOLDER, CANDIDATE,
10 OR BALLOT QUESTION REFERRED TO; THE NAME AND ADDRESS OF ANY PERSON
11 PREPARING OR EXECUTING THE EXPENDITURE; A CERTIFICATION BY THE
12 PRESIDENT OF THE CORPORATION THAT THIS SUBSECTION HAS BEEN COMPLIED
13 WITH; AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON
14 FILING THE REPORT.

15 ANY PERSON MAKING A POLITICAL EXPENDITURE USING CORPORATE
16 FUNDS PROVIDED IN WHOLE OR IN PART BY ANOTHER PERSON SHALL
17 ELECTRONICALLY FILE WITH THE SECRETARY OF STATE A REPORT THAT
18 INCLUDES ALL OF THE INFORMATION A CORPORATION MUST DISCLOSE AS SET
19 FORTH ABOVE; THE NAME, ADDRESS, AND PRINCIPAL PLACE OF BUSINESS OF
20 ALL OF THE ORIGINAL SOURCES OF THE CORPORATE FUNDS USED TO MAKE THE
21 EXPENDITURE, AS WELL AS THE AMOUNT EACH ORIGINAL SOURCE PROVIDED;
22 AND THE NAME AND ADDRESS OF ALL PERSONS WHO WERE CONDUITS OR
23 INTERMEDIARIES FOR ANY OF THE CORPORATE FUNDS BEFORE THEIR
24 EXPENDITURE.

25 THESE REPORTS SHALL BE ELECTRONICALLY FILED WITH THE SECRETARY
26 OF STATE NO LATER THAN 48 HOURS AFTER THE POLITICAL EXPENDITURE IS
27 MADE. FOR PURPOSES OF THIS SUBSECTION, A POLITICAL EXPENDITURE IS

1 MADE WHEN THE COMMUNICATION FIRST APPEARS IN PUBLIC.

2 THE SECRETARY OF STATE SHALL MAKE ALL REPORTS FILED UNDER THIS
3 SUBSECTION IMMEDIATELY AVAILABLE TO THE PUBLIC ON THE STATE OF
4 MICHIGAN'S WEBSITE.

5 (2) CORPORATIONS MAKING A LOBBYING EXPENDITURE USING CORPORATE
6 FUNDS SHALL ELECTRONICALLY FILE REPORTS WITH THE SECRETARY OF STATE
7 AS FOLLOWS:

8 (A) PAYMENTS TO THE PERSONS DEFINED IN SUBSECTION (7) (D) (i)
9 SHALL BE REPORTED BY JANUARY 15, APRIL 15, JULY 15, AND OCTOBER 15
10 OF EACH YEAR FOR THE PREVIOUS QUARTER. THESE REPORTS SHALL INCLUDE
11 THE CORPORATION'S NAME, ADDRESS, TELEPHONE NUMBER, AND PRINCIPAL
12 PLACE OF BUSINESS; THE NAME, ADDRESS, AND PRINCIPAL PLACE OF
13 BUSINESS OF THE PERSON TO WHOM THE PAYMENTS WERE MADE; THE AMOUNT
14 PAID TO EACH PERSON; A CERTIFICATION BY THE PRESIDENT OF THE
15 CORPORATION THAT THIS SUBSECTION HAS BEEN COMPLIED WITH; AND THE
16 NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON FILING THE
17 REPORT.

18 (B) THE COST OF PROVIDING FOOD, DRINK, HOUSING, ENTERTAINMENT,
19 TRAVEL, GIFTS, OR ANYTHING OF ASCERTAINABLE MONETARY VALUE TO OR
20 FOR OFFICIALS OR PERSONS IN STATE GOVERNMENT AS DEFINED IN
21 SUBSECTION (7) (D) (ii) SHALL BE REPORTED BY JANUARY 15, APRIL 15,
22 JULY 15, AND OCTOBER 15 OF EACH YEAR FOR THE PREVIOUS QUARTER.
23 THESE REPORTS SHALL INCLUDE THE CORPORATION'S NAME, ADDRESS,
24 TELEPHONE NUMBER, AND PRINCIPAL PLACE OF BUSINESS; THE NAME, TITLE,
25 AND AMOUNT PROVIDED TO AND ISSUE DISCUSSED WITH EACH OFFICIAL OR
26 PERSON IN STATE GOVERNMENT AS DEFINED IN SUBSECTION (7) (D) (ii); A
27 CERTIFICATION BY THE PRESIDENT OF THE CORPORATION THAT THIS

1 SUBSECTION HAS BEEN COMPLIED WITH; AND THE NAME, ADDRESS, AND
2 TELEPHONE NUMBER OF THE PERSON FILING THE REPORT.

3 (C) THE COST OF PAID COMMUNICATIONS AS DEFINED IN SUBSECTION
4 (7) (D) (iii) SHALL BE FILED NO LATER THAN 48 HOURS AFTER THE
5 COMMUNICATION IS MADE. FOR PURPOSES OF THIS SUBSECTION, A
6 COMMUNICATION IS MADE WHEN THE COMMUNICATION FIRST APPEARS IN
7 PUBLIC. THESE REPORTS SHALL INCLUDE THE CORPORATION'S NAME,
8 ADDRESS, TELEPHONE NUMBER, AND PRINCIPAL PLACE OF BUSINESS; THE
9 DATE, AMOUNT, AND MEDIUM OF THE COMMUNICATION; THE OFFICIAL OR
10 PERSON AS DEFINED IN SUBSECTION (7) (D) (iii) SOUGHT TO BE INFLUENCED
11 BY THE COMMUNICATION; THE NAME AND ADDRESS OF ANY PERSON PREPARING
12 OR EXECUTING THE COMMUNICATION; A CERTIFICATION BY THE PRESIDENT OF
13 THE CORPORATION THAT THIS SUBSECTION HAS BEEN COMPLIED WITH; AND
14 THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON FILING THE
15 REPORT.

16 THE SECRETARY OF STATE SHALL MAKE ALL REPORTS FILED UNDER THIS
17 SUBSECTION IMMEDIATELY AVAILABLE TO THE PUBLIC ON THE STATE OF
18 MICHIGAN'S WEBSITE.

19 THIS SUBSECTION DOES NOT REQUIRE PERSONS DEFINED IN SUBSECTION
20 (7) (D) (i) THAT ARE CORPORATIONS TO FILE REPORTS IF THEY DUPLICATE
21 THE REPORTS THE LOBBYIST'S CORPORATE CLIENT FILES UNDER THIS
22 SUBSECTION. PERSONS DEFINED IN SUBSECTION (7) (D) (i) MAY FILE THE
23 REPORTS REQUIRED BY THIS SUBSECTION ON BEHALF OF THEIR CORPORATE
24 CLIENTS.

25 (3) ANY CORPORATION OR PERSON MAKING A POLITICAL EXPENDITURE,
26 OR A LOBBYING EXPENDITURE WHICH IS A PAID COMMUNICATION AS DEFINED
27 IN SUBSECTION (7) (D) (iii), USING CORPORATE FUNDS SHALL IDENTIFY A

1 COMMUNICATION AS FOLLOWS:

2 (A) WITH A DISCLAIMER STATING "PAID FOR WITH CORPORATE FUNDS
3 BY [NAME AND ADDRESS OF CORPORATION]".

4 (B) IF THE PERSON MAKING THE EXPENDITURE IS NOT THE ORIGINAL
5 SOURCE OF ALL OF THE CORPORATE FUNDS, AND THE COMMUNICATION HAS A
6 VISIBLE COMPONENT, THE DISCLAIMER SHALL INCLUDE THE NAME, ADDRESS,
7 AND LOGO, IF ANY, OF THE THREE PERSONS MAKING THE LARGEST
8 CONTRIBUTIONS TO THAT PERSON DURING THE TWELVE-MONTH PERIOD BEFORE
9 THE DATE OF THE COMMUNICATION, LABELED AS "TOP THREE CONTRIBUTORS".

10 (C) ON ALL COMMUNICATIONS WITH A VISIBLE COMPONENT, THE
11 DISCLAIMER SHALL INCLUDE THE CORPORATE LOGO, IF ANY, AND THE NAME
12 AND PHOTOGRAPH OF THE CORPORATION'S PRESIDENT AND SHALL BE CLEARLY
13 VISIBLE AND READABLE FOR AT LEAST FOUR SECONDS.

14 (D) ON ALL COMMUNICATIONS THAT ARE SOLELY AUDIO, THE
15 DISCLAIMER SHALL BE CLEARLY READ BY THE PRESIDENT OF THE LARGEST
16 CORPORATE CONTRIBUTOR, WHO SHALL IDENTIFY HIMSELF OR HERSELF AS
17 SUCH.

18 (4) EACH CORPORATION REQUIRED TO FILE A REPORT WITH THE
19 SECRETARY OF STATE UNDER SUBSECTIONS (1) AND (2) SHALL ON THAT SAME
20 DATE PROVIDE A COPY OF THAT REPORT TO ITS BOARD OF DIRECTORS AND,
21 AS APPLICABLE, MEMBERS AND SHAREHOLDERS.

22 (5) ANY PERSON, INCLUDING ANY CORPORATE OFFICER, DIRECTOR,
23 MANAGER, EMPLOYEE, OR AGENT, WHO BECOMES AWARE OF ANY VIOLATION OR
24 SUSPECTED VIOLATION OF THIS SECTION SHALL IMMEDIATELY REPORT IT TO
25 THE SECRETARY OF STATE AND ATTORNEY GENERAL.

26 A PERSON WHO REPORTS OR IS ABOUT TO REPORT ANY VIOLATION OR
27 SUSPECTED VIOLATION OF THIS SECTION OR WHO PARTICIPATES IN ANY

1 INVESTIGATION, HEARING, INQUIRY, LAWSUIT, OR PROSECUTION RELATING
2 TO A VIOLATION OR SUSPECTED VIOLATION OF THIS SECTION SHALL NOT BE
3 RETALIATED OR DISCRIMINATED AGAINST IN ANY WAY BY ANY PERSON. ANY
4 PERSON WHO ALLEGES A VIOLATION OF THIS SECTION MAY BRING A CIVIL
5 ACTION FOR INJUNCTIVE RELIEF, REINSTATEMENT, DAMAGES, AND COSTS AND
6 ATTORNEY FEES IN THE INGHAM COUNTY CIRCUIT COURT.

7 ANY CITIZEN OR GROUP OF CITIZENS OF THIS STATE SHALL HAVE
8 STANDING TO BRING A CIVIL ACTION TO ENFORCE THIS SECTION IN THE
9 INGHAM COUNTY CIRCUIT COURT. IF THE CITIZEN OR GROUP OF CITIZENS
10 PREVAILS IN WHOLE OR IN PART, THE COURT SHALL AWARD DAMAGES AND
11 COSTS AND ATTORNEY FEES. DAMAGES FOR A VIOLATION OF THIS SECTION
12 SHALL INCLUDE TRIPLE THE AMOUNT OF THE EXPENDITURE INVOLVED AND
13 SHALL BE PAYABLE TO THE STATE OF MICHIGAN.

14 ANY PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A
15 FELONY PUNISHABLE, IF THE PERSON IS AN INDIVIDUAL, BY A FINE OF NOT
16 MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN THREE YEARS,
17 OR BOTH, OR IF THE PERSON IS NOT AN INDIVIDUAL, BY A FINE OF NOT
18 MORE THAN THE VALUE OF THE EXPENDITURE INVOLVED.

19 (6) THIS SECTION SHALL BE SELF-EXECUTING. IF ANY PROVISION OF
20 THIS SECTION OR THE APPLICATION OF THIS SECTION TO ANY CIRCUMSTANCE
21 IS HELD INVALID OR PREEMPTED, THAT INVALIDITY OR PREEMPTION SHALL
22 NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE SECTION, AND TO
23 THIS END, THE PROVISIONS OF THIS SECTION ARE DECLARED TO BE
24 SEVERABLE.

25 (7) FOR PURPOSES OF THIS SECTION:

26 (A) "CORPORATION" MEANS A FOR-PROFIT OR NONPROFIT CORPORATION,
27 LIMITED LIABILITY COMPANY OR PARTNERSHIP, JOINT VENTURE, JOINT

1 STOCK COMPANY, COMPANY, FIRM, OR ANY ENTERPRISE INCORPORATED UNDER
2 AND SUBJECT TO MICHIGAN LAW OR INCORPORATED UNDER AND SUBJECT TO
3 THE LAWS OF ANOTHER STATE, TERRITORY, THE UNITED STATES, OR FOREIGN
4 COUNTRY. CORPORATION INCLUDES THE PARENT OF A SUBSIDIARY OR ANY
5 SUBSIDIARIES OF THE PARENT. FOR PURPOSES OF SUBSECTION (1),
6 CORPORATION DOES NOT INCLUDE A MUNICIPAL CORPORATION OR A LABOR
7 ORGANIZATION.

8 (B) "CORPORATE FUNDS" MEANS MONEY OR ANYTHING OF ASCERTAINABLE
9 MONETARY VALUE OWNED OR CONTROLLED BY A CORPORATION.

10 (C) "ELECTION" MEANS A PRIMARY, GENERAL, SPECIAL, RECALL, OR
11 BALLOT QUESTION ELECTION HELD IN THIS STATE OR A CONVENTION,
12 CAUCUS, OR MEETING OF A POLITICAL PARTY HELD IN THIS STATE TO
13 NOMINATE A CANDIDATE.

14 (D) "LOBBYING EXPENDITURE" MEANS ANY OF THE FOLLOWING:

15 (i) A PAYMENT OF ANYTHING OF ASCERTAINABLE MONETARY VALUE TO
16 ANY PERSON FOR THE PURPOSE OF INFLUENCING THE PERFORMANCE OF
17 OFFICIAL DUTIES BY ANY ELECTED OFFICIAL, APPOINTED OFFICIAL, OR
18 PERSON WHOSE DUTIES INCLUDE THE ABILITY TO INFLUENCE THE MAKING OR
19 EXECUTING OF PUBLIC POLICY IN THE EXECUTIVE OR LEGISLATIVE BRANCH
20 OF STATE GOVERNMENT.

21 (ii) THE COST OF PROVIDING FOOD, DRINK, HOUSING, ENTERTAINMENT,
22 TRAVEL, GIFTS, OR ANYTHING OF ASCERTAINABLE MONETARY VALUE TO OR
23 FOR AN ELECTED OFFICIAL, APPOINTED OFFICIAL, OR PERSON WHOSE DUTIES
24 INCLUDE THE ABILITY TO INFLUENCE THE MAKING OR EXECUTING OF PUBLIC
25 POLICY IN THE EXECUTIVE, JUDICIAL, OR LEGISLATIVE BRANCH OF STATE
26 GOVERNMENT.

27 (iii) THE COST OF ANY PAID COMMUNICATION BY ANY MEANS TO THE

1 PUBLIC MADE FOR THE PURPOSE OF INFLUENCING THE PERFORMANCE OF
2 OFFICIAL DUTIES BY ANY ELECTED OFFICIAL, APPOINTED OFFICIAL, OR
3 PERSON WHOSE DUTIES INCLUDE THE ABILITY TO INFLUENCE THE MAKING OR
4 EXECUTING OF PUBLIC POLICY IN THE EXECUTIVE OR LEGISLATIVE BRANCH
5 OF STATE GOVERNMENT.

6 (E) "POLITICAL EXPENDITURE" MEANS ANY PAID COMMUNICATION BY
7 ANY MEANS TO THE PUBLIC THAT INCLUDES THE NAME, NICKNAME, OR IMAGE
8 OF A STATE OR LOCAL ELECTIVE OFFICEHOLDER, OR OF A CANDIDATE FOR
9 ELECTIVE STATE OR LOCAL OFFICE; OR REFERS TO A STATE OR LOCAL
10 ELECTIVE OFFICEHOLDER THROUGH A REFERENCE SUCH AS "THE GOVERNOR",
11 "YOUR REPRESENTATIVE", OR "THE INCUMBENT", OR REFERS TO A CANDIDATE
12 FOR ELECTIVE STATE OR LOCAL OFFICE THROUGH A REFERENCE SUCH AS "THE
13 DEMOCRATIC NOMINEE" OR "THE REPUBLICAN CANDIDATE"; OR REFERS TO A
14 STATE OR LOCAL BALLOT QUESTION, AND THAT IS MADE WITHIN NINETY DAYS
15 BEFORE AN ELECTION AT WHICH THE BALLOT QUESTION APPEARS ON THE
16 BALLOT. POLITICAL EXPENDITURE DOES NOT INCLUDE A BONA FIDE NEWS
17 STORY OR EDITORIAL DISTRIBUTED BY A CORPORATION NOT OWNED OR
18 CONTROLLED BY AN OFFICEHOLDER OR CANDIDATE; A PUBLIC CANDIDATE
19 DEBATE OR FORUM OR THE PROMOTING OF THAT PUBLIC DEBATE OR FORUM
20 THAT IS MADE BY OR ON BEHALF OF THE PERSON SPONSORING THE PUBLIC
21 DEBATE OR FORUM; OR A COMMUNICATION MADE SOLELY FOR THE PURPOSE OF
22 ATTRACTING PUBLIC ATTENTION TO A PRODUCT OR SERVICE OFFERED FOR
23 SALE BY AN OFFICEHOLDER OR CANDIDATE OR BY A BUSINESS OWNED OR
24 OPERATED BY AN OFFICEHOLDER OR CANDIDATE THAT DOES NOT MENTION AN
25 ELECTION, THE OFFICE HELD BY THE OFFICEHOLDER OR SOUGHT BY THE
26 CANDIDATE, OR HIS OR HER STATUS AS AN OFFICEHOLDER OR A CANDIDATE.

27 Resolved further, That the foregoing amendment shall be

- 1 submitted to the people of the state at the next general election
- 2 in the manner provided by law.