

HOUSE JOINT RESOLUTION NN

February 2, 2012, Introduced by Reps. Brown, Townsend, Byrum, Segal, Slavens, Bauer, Switalski, Hammel, Lindberg, Barnett, Liss, Durhal and Howze and referred to the Committee on Redistricting and Elections.

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, AMOUNT,
9 AND MEDIUM OF THE EXPENDITURE; THE OFFICEHOLDER, CANDIDATE, OR
10 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 PRIOR TO 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 FOR THE PREVIOUS QUARTER. THESE REPORTS SHALL INCLUDE THE
11 CORPORATION'S NAME, ADDRESS, TELEPHONE NUMBER, AND PRINCIPAL PLACE
12 OF BUSINESS; THE NAME, ADDRESS, AND PRINCIPAL PLACE OF BUSINESS OF
13 THE PERSON TO WHOM THE PAYMENTS WERE MADE; THE AMOUNT PAID TO EACH
14 PERSON; A CERTIFICATION BY THE PRESIDENT OF THE CORPORATION THAT
15 THIS SUBSECTION HAS BEEN COMPLIED WITH; AND THE NAME, ADDRESS, AND
16 TELEPHONE NUMBER OF THE PERSON FILING THE REPORT.

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

1 TELEPHONE NUMBER OF THE PERSON FILING THE REPORT.

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

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

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

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

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

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

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

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

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

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

25 A PERSON WHO REPORTS OR IS ABOUT TO REPORT ANY VIOLATION OR
26 SUSPECTED VIOLATION OF THIS SECTION OR WHO PARTICIPATES IN ANY
27 INVESTIGATION, HEARING, INQUIRY, LAWSUIT, OR PROSECUTION RELATING

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

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

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

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

24 (7) FOR PURPOSES OF THIS SECTION:

25 (A) "CORPORATION" MEANS A FOR-PROFIT OR NONPROFIT CORPORATION,
26 LIMITED LIABILITY COMPANY OR PARTNERSHIP, JOINT VENTURE, JOINT
27 STOCK COMPANY, COMPANY, FIRM, OR ANY ENTERPRISE INCORPORATED UNDER

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

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

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

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

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

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

26 (iii) THE COST OF ANY PAID COMMUNICATION BY ANY MEANS TO THE
27 PUBLIC MADE FOR THE PURPOSE OF INFLUENCING THE PERFORMANCE OF

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

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