

HOUSE BILL 981

G1

(8lr0949)

ENROLLED BILL

— Ways and Means/Education, Health, and Environmental Affairs —

Introduced by ~~Delegates A. Washington and Korman~~, **Korman, and Rosenberg**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Online Electioneering Transparency and Accountability Act**

3 FOR the purpose of ~~altering the definition of “public communication” to include online~~
4 ~~political advertisements for the purposes of certain provisions of law that require a~~
5 ~~person who makes independent expenditures of a certain amount to file a certain~~
6 ~~report; altering the definition of “electioneering communication” to include online~~
7 ~~political advertisements for the purposes of certain provisions of law that require a~~
8 ~~person who makes disbursements for electioneering communications of a certain~~
9 ~~amount to file a certain report; prohibiting a foreign principal from making a~~
10 ~~donation to certain persons or entities; prohibiting a foreign-influenced corporation~~
11 ~~from making a contribution or donation to certain persons or entities; requiring~~
12 ~~certain persons making independent expenditures or disbursements for~~
13 ~~electioneering communications to retain a copy of an item of campaign material for~~
14 ~~a certain period of time; requiring an online platform to retain a digital copy of each~~
15 ~~online political advertisement that the online platform distributes or transmits for a~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~certain period of time; requiring an online platform to maintain account books and records that include certain information relating to online political advertisements for a certain period of time; requiring an online platform to make certain records available for public inspection and provide certain records to the State Board of Elections on request; requiring an online platform to provide certain information to the State Board within a certain period of time if certain persons purchase an online political advertisement; defining certain terms; making a technical correction; and generally relating to disclosure of online political advertisements and campaign material.~~ altering the definition of "campaign material" to include certain material that is disseminated and certain qualifying paid digital communications; altering the definition of "public communication" to include certain qualifying paid digital communications for purposes of certain provisions of law that require a person who makes independent expenditures of a certain amount to file a certain report; altering the definition of "electioneering communication" to include certain qualifying paid digital communications for purposes of certain provisions of law that require a person who makes disbursements for electioneering communications of a certain amount to file a certain report; providing that the definition of "electioneering communication" does not include a news story, commentary, or editorial disseminated through certain electronic or print media; providing that, if campaign material is too small to include certain information in a legible manner, the authority line need only contain the information required by the State Board of Elections by regulation, rather than the name and title of a certain person; requiring certain persons making independent expenditures or disbursements for electioneering communications to retain a copy of an item of campaign material for a certain period of time; requiring a person who directly or indirectly requests placement of a certain qualifying paid digital communication on an online platform to provide a certain express notice to the online platform in a certain manner; requiring a purchaser of a qualifying paid digital communication to take certain actions if the online platform does not provide a method to provide a certain notice; requiring an online platform to make available for public inspection on the Internet in a certain format certain records regarding certain qualifying paid digital communications disseminated through the online platform *except under certain circumstances*; requiring an online platform to allow the public to search certain records in a certain manner; requiring that certain records be available for public inspection on the Internet *in a certain location* for a certain period of time; *authorizing an online platform to apply to the State Board for a certain compliance waiver; requiring the State Board to require an applicant for a compliance waiver to provide certain information; prohibiting the State Board from granting more than one compliance waiver to an online platform; prohibiting the State Board from granting a compliance waiver to an online platform within a certain period of time; providing that a certain compliance waiver is not effective during a certain period of time; requiring, under certain circumstances, an online platform to apply for a compliance waiver before receiving payment for a qualifying paid digital communication; requiring an online platform to maintain and make available to the State Board on request certain records regarding qualifying paid digital communications disseminated through the online platform; requiring an online platform to allow the State Board to search certain records in a certain manner;* requiring certain records to be available on the request of the State Board

1 for a certain period of time; providing that certain information obtained by the State
 2 Board concerning qualifying paid digital communications is not subject to inspection
 3 under the Public Information Act; requiring a purchaser of a certain qualifying paid
 4 digital communication to provide the online platform that disseminates the
 5 qualifying paid digital communication with certain information; providing that an
 6 online platform may rely in good faith on information provided by a purchaser of a
 7 certain qualifying paid digital communication; requiring an online platform to make
 8 reasonable efforts to allow the State Board to obtain certain information and request
 9 that a purchaser of a certain qualifying paid digital communication comply with
 10 certain provisions of law; requiring an online platform that disseminates certain
 11 qualifying paid digital communications to make reasonable efforts in accordance
 12 with a certain federal law to comply with any subpoena that is issued in connection
 13 with certain investigations concerning certain qualifying paid digital
 14 communications; authorizing the State Administrator of Elections to investigate
 15 certain potential violations of certain provisions of law and this Act by a purchaser
 16 of a certain qualifying paid digital communication; authorizing the State
 17 Administrator to issue a subpoena in furtherance of a certain investigation;
 18 providing for service of a certain subpoena; authorizing a circuit court to compel
 19 compliance with a subpoena on petition of the State Administrator; authorizing the
 20 State Board to request that the Attorney General seek injunctive relief in a circuit
 21 court to require a purchaser of a certain qualifying paid digital communication to
 22 comply with certain provisions of law and this Act, or require an online platform to
 23 remove a qualifying paid digital communication that does not comply with certain
 24 provisions of law and this Act; requiring the State Board to provide a certain notice
 25 and hold a public meeting before requesting that the Attorney General seek an
 26 injunction; authorizing a circuit court to grant injunctive relief only if the Attorney
 27 General shows clear and convincing evidence of a violation of certain provisions of
 28 law or this Act; providing that a person who violates an injunction is subject to
 29 certain penalties; prohibiting a person from purchasing campaign material or an
 30 electioneering communication using any currency other than United States
 31 currency; prohibiting a person from willfully and knowingly selling campaign
 32 material or an electioneering communication to a person who uses any currency
 33 other than United States currency to make the purchase; making conforming and
 34 technical changes; defining certain terms; and generally relating to the disclosure of
 35 qualifying paid digital communications and campaign material.

36 ~~BY repealing and reenacting, with amendments,~~

37 ~~Article — Election Law~~

38 ~~Section 1 — 101(k), 13 — 236.1, 13 — 306(a), 13 — 307(a) and (c), and 13 — 403~~

39 ~~Annotated Code of Maryland~~

40 ~~(2017 Replacement Volume and 2017 Supplement)~~

41 ~~BY adding to~~

42 ~~Article — Election Law~~

43 ~~Section 1 — 101(dd 1) and (dd 2) and 13 — 403.1~~

44 ~~Annotated Code of Maryland~~

45 ~~(2017 Replacement Volume and 2017 Supplement)~~

1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article – Election Law~~
 3 ~~Section 13–306(b) through (e), 13–307(b) through (d), and 13–401~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2017 Replacement Volume and 2017 Supplement)~~

6 BY repealing and reenacting, without amendments,
 7 Article – Election Law
 8 Section 1–101(a), 13–306(b) through (e), and 13–307(b) through (d)
 9 Annotated Code of Maryland
 10 (2017 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article – Election Law
 13 Section 1–101(k), 13–306(a), 13–307(a) and (e), 13–401, and 13–403
 14 Annotated Code of Maryland
 15 (2017 Replacement Volume and 2017 Supplement)

16 BY adding to
 17 Article – Election Law
 18 Section 1–101(dd–1) and (ll–1), 13–405, 13–405.1, and 13–405.2
 19 Annotated Code of Maryland
 20 (2017 Replacement Volume and 2017 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 22 That the Laws of Maryland read as follows:

23 **Article – Election Law**

24 ~~1–101.~~

25 ~~(k) (1) “Campaign material” means any material that:~~

26 ~~(i) contains text, graphics, or other images;~~

27 ~~(ii) relates to a candidate, a prospective candidate, or the approval~~
 28 ~~or rejection of a question or prospective question; and~~

29 ~~(iii) is published or distributed.~~

30 ~~(2) “Campaign material” includes:~~

31 ~~(i) AN ONLINE POLITICAL ADVERTISEMENT;~~

32 ~~(ii) ANY OTHER material transmitted by or appearing on the~~
 33 ~~Internet or other electronic medium; and~~

1 ~~[(ii)] (iii) an oral commercial campaign advertisement.~~

2 ~~(DD-1) "ONLINE PLATFORM" MEANS ANY PUBLIC-FACING WEBSITE, WEB~~
3 ~~APPLICATION, OR DIGITAL APPLICATION, INCLUDING A SOCIAL NETWORK OR~~
4 ~~SEARCH ENGINE, THAT HAS 100,000 OR MORE UNIQUE MONTHLY UNITED STATES~~
5 ~~VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY~~
6 ~~PRECEDING 12 MONTHS.~~

7 ~~(DD-2) (1) "ONLINE POLITICAL ADVERTISEMENT" MEANS ANY~~
8 ~~ELECTRONIC COMMUNICATION THAT:~~

9 ~~(I) IS PLACED OR PROMOTED FOR A FEE ON AN ONLINE~~
10 ~~PLATFORM;~~

11 ~~(II) IS DISTRIBUTED OR TRANSMITTED TO 5,000 OR MORE~~
12 ~~INDIVIDUALS;~~

13 ~~(III) REFERS TO A CLEARLY IDENTIFIED CANDIDATE OR BALLOT~~
14 ~~ISSUE; AND~~

15 ~~(IV) DOES NOT PROPOSE A COMMERCIAL TRANSACTION.~~

16 ~~(2) FOR PURPOSES OF THIS SUBSECTION, "CLEARLY IDENTIFIED"~~
17 ~~MEANS:~~

18 ~~(I) THE NAME OF A CANDIDATE APPEARS;~~

19 ~~(II) A PHOTOGRAPH OR DRAWING OF A CANDIDATE APPEARS;~~

20 ~~OR~~

21 ~~(III) THE IDENTITY OF A CANDIDATE OR BALLOT ISSUE IS~~
22 ~~APPARENT BY UNAMBIGUOUS REFERENCE.~~

23 ~~13-236.1.~~

24 ~~(a) (1) In this section[, "foreign principal"] THE FOLLOWING WORDS HAVE~~
25 ~~THE MEANINGS INDICATED:~~

26 ~~(2) "FOREIGN-INFLUENCED CORPORATION" MEANS A CORPORATION~~
27 ~~AT LEAST 5% OF WHICH IS OWNED BY FOREIGN NATIONALS.~~

28 ~~(3) "FOREIGN NATIONAL" HAS THE MEANING STATED IN 52 U.S.C. §~~
29 ~~30121(B).~~

1 ~~(4) “FOREIGN PRINCIPAL” has the meaning stated in 22 U.S.C. § 611(b).~~

2 ~~(b) A foreign principal OR FOREIGN-INFLUENCED CORPORATION may not:~~

3 ~~(1) make a contribution to a ballot issue committee; or~~

4 ~~(2) make a donation to [a person that makes independent expenditures or~~
5 ~~electioneering communications relating to a ballot issue];~~

6 ~~(I) A PERSON REQUIRED TO FILE AN INDEPENDENT~~
7 ~~EXPENDITURE REPORT UNDER § 13-306 OF THIS TITLE;~~

8 ~~(II) A PERSON REQUIRED TO FILE AN ELECTIONEERING~~
9 ~~COMMUNICATION REPORT UNDER § 13-307 OF THIS TITLE;~~

10 ~~(III) A POLITICAL ACTION COMMITTEE REQUIRED TO FILE A~~
11 ~~DISCLOSURE REPORT UNDER § 13-309.1 OF THIS TITLE; OR~~

12 ~~(IV) A PARTICIPATING ORGANIZATION REQUIRED TO FILE A~~
13 ~~PARTICIPATING ORGANIZATION REPORT UNDER § 13-309.2 OF THIS TITLE.~~

14 ~~13-306.~~

15 ~~(a) (1) In this section the following words have the meanings indicated.~~

16 ~~(2) (i) “Donation” means the gift or transfer, or promise of gift or~~
17 ~~transfer, of money or other thing of value to a person who makes independent expenditures.~~

18 ~~(ii) “Donation” does not include any amount of money or any other~~
19 ~~thing of value:~~

20 ~~1. received by a person in the ordinary course of any trade or~~
21 ~~business conducted by the person, whether for profit or not for profit, or in the form of~~
22 ~~investments in the person’s business; or~~

23 ~~2. A. that the donor and the person receiving the money~~
24 ~~or thing of value expressly agree in writing may not be used for independent expenditures;~~
25 ~~and~~

26 ~~B. in the case of a monetary donation, is deposited in a~~
27 ~~separate bank account that is never used for independent expenditures.~~

28 ~~(3) “E-mail blast” means a transmission of electronic mail messages of an~~
29 ~~identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.~~

1 ~~(4) "Mass mailing" means a mailing by United States mail or facsimile of~~
2 ~~more than 500 pieces of mail matter of an identical or substantially similar nature within~~
3 ~~any 30-day period.~~

4 ~~(5) (i) "Person" includes an individual, a partnership, a committee, an~~
5 ~~association, a corporation, a labor organization, or any other organization or group of~~
6 ~~persons.~~

7 ~~(ii) "Person" does not include a campaign finance entity organized~~
8 ~~under Subtitle 2, Part II of this title.~~

9 ~~(6) (i) "Public communication" means a communication by means of~~
10 ~~any broadcast television or radio communication, cable television communication, satellite~~
11 ~~television or radio communication, newspaper, magazine, outdoor advertising facility, mass~~
12 ~~mailing, e-mail blast, text blast, ONLINE POLITICAL ADVERTISEMENT, or telephone~~
13 ~~bank to the general public, or any other form of general public political advertising.~~

14 ~~(ii) "Public communication" does not include:~~

15 ~~1. a news story, a commentary, or an editorial disseminated~~
16 ~~by a broadcasting station, including a cable television operator, programmer, or producer,~~
17 ~~satellite television or radio provider, Web site, newspaper, magazine, or other periodical~~
18 ~~publication, including any Internet or electronic publication, that is not controlled by a~~
19 ~~candidate or political party;~~

20 ~~2. an internal membership communication by a business or~~
21 ~~other entity to its stockholders or members and executive and administrative personnel~~
22 ~~and their immediate families, or by a membership entity, as defined under § 13-243 of this~~
23 ~~title, to its members, executive and administrative personnel and their immediate families;~~
24 ~~or~~

25 ~~3. a candidate debate or forum.~~

26 ~~(7) "Telephone bank" means more than 500 telephone calls of an identical~~
27 ~~or substantially similar nature within any 30-day period.~~

28 ~~(8) "Text blast" means a transmission of text messages of an identical or~~
29 ~~substantially similar nature to 5,000 or more telephone numbers simultaneously.~~

30 ~~(b) Within 48 hours after a person makes aggregate independent expenditures of~~
31 ~~\$5,000 or more in an election cycle for campaign material that is a public communication,~~
32 ~~the person shall file a registration form with the State Board.~~

33 ~~(c) Within 48 hours after a day on which a person makes aggregate independent~~
34 ~~expenditures of \$10,000 or more in an election cycle for campaign material that is a public~~
35 ~~communication, the person shall file an independent expenditure report with the State~~
36 ~~Board.~~

~~(d) A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report with the State Board within 48 hours after a day on which the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person's previous independent expenditure report.~~

~~(e) An independent expenditure report shall include the following information:~~

~~(1) the identity of the person making the independent expenditures and of the person exercising direction or control over the activities of the person making the independent expenditures;~~

~~(2) the business address of the person making the independent expenditures;~~

~~(3) the amount and date of each independent expenditure during the period covered by the report and the person to whom the expenditure was made;~~

~~(4) the candidate or ballot issue to which the independent expenditure relates and whether the independent expenditure supports or opposes that candidate or ballot issue; and~~

~~(5) the identity of each person who made cumulative donations of \$6,000 or more to the person making the independent expenditures during the period covered by the report.~~

~~13-307.~~

~~(a) (1) In this section the following words have the meanings indicated:~~

~~(2) (i) "Donation" means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that makes disbursements for electioneering communications.~~

~~(ii) "Donation" does not include any amount of money or any other thing of value:~~

~~1. received by a person in the ordinary course of any trade or business conducted by the person, whether for profit or not for profit, or in the form of investments in the person's business; or~~

~~2. A. that the donor and the person receiving the money or thing of value expressly agree in writing may not be used for electioneering communications; and~~

~~B. in the case of a monetary donation, is deposited in a separate bank account that is never used for electioneering communications.~~

~~(3) (i) "Electioneering communication" means a broadcast television or radio communication, a cable television communication, a satellite television or radio communication, a mass mailing, an e-mail blast, a text blast, a telephone bank, AN ONLINE POLITICAL ADVERTISEMENT, or an advertisement in a print publication that:~~

~~1. refers to a clearly identified candidate or ballot issue;~~

~~2. is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;~~

~~3. is capable of being received by:~~

~~A. 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is transmitted by television or radio; or~~

~~B. 5,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is a mass mailing, an e-mail blast, a text blast, a telephone bank, or an advertisement in a print publication; and~~

~~4. is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.~~

~~(ii) "Electioneering communication" does not include:~~

~~1. an independent expenditure;~~

~~2. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider that is not controlled by a candidate or political party;~~

~~3. a candidate debate or forum;~~

~~4. an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under § 13-243 of this title, to its members, executive and administrative personnel and their immediate families;~~

~~5. a communication that proposes a commercial transaction.~~

~~(iii) For purposes of this paragraph, "clearly identified" means:~~

- 1 ~~1. the name of a candidate appears;~~
2 ~~2. a photograph or drawing of a candidate appears; or~~
3 ~~3. the identity of a candidate or ballot issue is apparent by~~
4 ~~unambiguous reference.~~

5 ~~(4) "E-mail blast" means a transmission of electronic mail messages of an~~
6 ~~identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.~~

7 ~~(5) "Mass mailing" means a mailing by United States mail or facsimile of~~
8 ~~more than 5,000 pieces of mail matter of an identical or substantially similar nature within~~
9 ~~any 30-day period.~~

10 ~~(6) (i) "Person" includes an individual, a partnership, a committee, an~~
11 ~~association, a corporation, a labor organization, or any other organization or group of~~
12 ~~persons.~~

13 ~~(ii) "Person" does not include a campaign finance entity organized~~
14 ~~under Subtitle 2, Part II of this title.~~

15 ~~(7) "Telephone bank" means more than 5,000 telephone calls of an identical~~
16 ~~or substantially similar nature within any 30-day period.~~

17 ~~(8) "Text blast" means a transmission of text messages of an identical or~~
18 ~~substantially similar nature to 5,000 or more telephone numbers simultaneously.~~

19 ~~(b) Within 48 hours after a person makes aggregate disbursements of \$5,000 or~~
20 ~~more in an election cycle for electioneering communications, the person shall file a~~
21 ~~registration form with the State Board.~~

22 ~~(c) Within 48 hours after a day on which a person makes aggregate~~
23 ~~disbursements of \$10,000 or more in an election cycle for electioneering communications,~~
24 ~~the person shall file an electioneering communication report with the State Board.~~

25 ~~(d) A person who files an electioneering communication report under subsection~~
26 ~~(c) of this section shall file an additional electioneering communication report with the~~
27 ~~State Board within 48 hours after a day on which the person makes aggregate~~
28 ~~disbursements of \$10,000 or more for electioneering communications following the closing~~
29 ~~date of the person's previous electioneering communication report.~~

30 ~~(e) An electioneering communication report shall include the following~~
31 ~~information:~~

1 ~~(1) the identity of the person making disbursements for electioneering~~
2 ~~communications and of the person exercising direction or control over the activities of the~~
3 ~~person making the disbursements for electioneering communications;~~

4 ~~(2) the business address of the person making the disbursements for~~
5 ~~electioneering communications;~~

6 ~~(3) the amount and date of each disbursement for electioneering~~
7 ~~communications during the period covered by the report and the person to whom the~~
8 ~~disbursement was made;~~

9 ~~(4) the candidate or ballot issue to which the electioneering~~
10 ~~communications relate; AND~~

11 ~~(5) the identity of each person who made cumulative donations of \$6,000~~
12 ~~or more to the person making the disbursements for electioneering communications during~~
13 ~~the period covered by the report.~~

14 ~~13-401.~~

15 ~~(a) (1) Except as otherwise provided in this section, each item of campaign~~
16 ~~material shall contain, set apart from any other message, an authority line that states:~~

17 ~~(i) as to campaign material published or distributed by a campaign~~
18 ~~finance entity:~~

19 ~~1. the name and address of the treasurer of each campaign~~
20 ~~finance entity responsible for the campaign material; and~~

21 ~~2. as to each treasurer named under item 1 of this item, the~~
22 ~~name of each campaign finance entity for which the treasurer is acting; and~~

23 ~~(ii) as to campaign material published or distributed by any other~~
24 ~~person, the name and address of the person responsible for the campaign material.~~

25 ~~(2) The authority line may omit an address that is on file with the State~~
26 ~~Board or a local board.~~

27 ~~(3) If the campaign material is too small to include all the information~~
28 ~~specified in paragraph (1) of this subsection in a legible manner, the authority line need~~
29 ~~only contain the name and title of the treasurer or other person responsible for it.~~

30 ~~(4) The authority line for campaign material that is a commercial~~
31 ~~advertisement need only contain the information specified in paragraphs (1) and (2) of this~~
32 ~~subsection for one campaign finance entity or other person responsible for the~~
33 ~~advertisement.~~

~~(b) Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement:~~

~~“This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate.”~~

~~13-403.~~

~~(a) (1) Subject to paragraph (2) of this subsection, each campaign finance entity, EACH PERSON REQUIRED TO FILE AN INDEPENDENT EXPENDITURE REPORT UNDER § 13-306 OF THIS TITLE, AND EACH PERSON REQUIRED TO FILE AN ELECTIONEERING COMMUNICATION REPORT UNDER § 13-307 OF THIS TITLE THAT IS responsible for, publisher of, and distributor of, an item of campaign material shall keep a sample copy of the item for at least 1 year after the general election next following the date when the item was published or distributed.~~

~~(2) For each item of campaign material disseminated through the Internet, the sample copy shall be:~~

~~(i) a paper facsimile; or~~

~~(ii) a copy on an electronic medium that can be produced as a paper facsimile on request.~~

~~(b) Subsection (a) of this section does not apply to a billboard or a sign.~~

~~13-403.1.~~

~~(A) (1) AN ONLINE PLATFORM SHALL:~~

~~(I) RETAIN A DIGITAL COPY OF EACH ONLINE POLITICAL ADVERTISEMENT THAT THE ONLINE PLATFORM DISTRIBUTES OR TRANSMITS; AND~~

~~(II) MAINTAIN ACCOUNT BOOKS AND RECORDS THAT INCLUDE:~~

~~1. THE NAME AND ADDRESS OF EACH PERSON WHO PURCHASES AN ONLINE POLITICAL ADVERTISEMENT FROM THE ONLINE PLATFORM; AND~~

~~2. THE COST AND METHOD OF PAYMENT FOR THE ONLINE POLITICAL ADVERTISEMENT.~~

~~(2) AN ONLINE PLATFORM SHALL RETAIN THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION NEXT FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISTRIBUTED OR TRANSMITTED THE ONLINE POLITICAL ADVERTISEMENT TO WHICH THE RECORDS RELATE.~~

~~(3) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

~~(I) AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF THE ONLINE PLATFORM DURING NORMAL BUSINESS HOURS; AND~~

~~(H) PROVIDED TO THE STATE BOARD ON REQUEST.~~

~~(B) (1) IN THIS SUBSECTION, "FOREIGN PRINCIPAL" HAS THE MEANING STATED IN 22 U.S.C. § 611(B).~~

~~(2) IF A FOREIGN PRINCIPAL, A PERSON USING A FOREIGN INTERNET PROTOCOL ADDRESS, OR A PERSON USING FOREIGN CURRENCY PURCHASES AN ONLINE POLITICAL ADVERTISEMENT, THE ONLINE PLATFORM USED TO DISTRIBUTE OR TRANSMIT THE ONLINE POLITICAL ADVERTISEMENT SHALL PROVIDE THE FOLLOWING TO THE STATE BOARD WITHIN 48 HOURS AFTER THE ONLINE POLITICAL ADVERTISEMENT IS DISTRIBUTED OR TRANSMITTED:~~

~~(I) A DIGITAL COPY OF THE ONLINE POLITICAL ADVERTISEMENT; AND~~

~~(H) THE AMOUNT PAID TO THE ONLINE PLATFORM TO DISTRIBUTE OR TRANSMIT THE ONLINE POLITICAL ADVERTISEMENT.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.~~

1-101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(k) (1) "Campaign material" means any material that:

(i) contains text, graphics, or other images;

(ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question or prospective question; and

(iii) is published [or], distributed, OR DISSEMINATED.

(2) “Campaign material” includes:

(I) A QUALIFYING PAID DIGITAL COMMUNICATION;

[(i)] (II) ANY OTHER material transmitted by or appearing on the Internet or other electronic medium; and

[(ii)] (III) an oral commercial campaign advertisement.

(DD-1) “ONLINE PLATFORM” MEANS ANY PUBLIC-FACING WEBSITE, WEB APPLICATION, OR DIGITAL APPLICATION, INCLUDING A SOCIAL NETWORK, AD NETWORK, OR SEARCH ENGINE, THAT:

(1) HAS 100,000 OR MORE UNIQUE MONTHLY UNITED STATES VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY PRECEDING 12 MONTHS; AND

(2) RECEIVES PAYMENT FOR QUALIFYING PAID DIGITAL COMMUNICATIONS.

(LL-1) “QUALIFYING PAID DIGITAL COMMUNICATION” MEANS ANY ELECTRONIC COMMUNICATION THAT:

(1) IS CAMPAIGN MATERIAL;

(2) IS PLACED OR PROMOTED FOR A FEE ON AN ONLINE PLATFORM;

(3) IS DISSEMINATED TO 500 OR MORE INDIVIDUALS; AND

(4) DOES NOT PROPOSE A COMMERCIAL TRANSACTION.

13-306.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person who makes independent expenditures.

(ii) “Donation” does not include any amount of money or any other thing of value:

1 1. received by a person in the ordinary course of any trade or
2 business conducted by the person, whether for profit or not for profit, or in the form of
3 investments in the person's business; or

4 2. A. that the donor and the person receiving the money
5 or thing of value expressly agree in writing may not be used for independent expenditures;
6 and

7 B. in the case of a monetary donation, is deposited in a
8 separate bank account that is never used for independent expenditures.

9 (3) "E-mail blast" means a transmission of electronic mail messages of an
10 identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.

11 (4) "Mass mailing" means a mailing by United States mail or facsimile of
12 more than 500 pieces of mail matter of an identical or substantially similar nature within
13 any 30-day period.

14 (5) (i) "Person" includes an individual, a partnership, a committee, an
15 association, a corporation, a labor organization, or any other organization or group of
16 persons.

17 (ii) "Person" does not include a campaign finance entity organized
18 under Subtitle 2, Part II of this title.

19 (6) (i) "Public communication" means a communication by means of
20 any broadcast television or radio communication, cable television communication, satellite
21 television or radio communication, newspaper, magazine, outdoor advertising facility, mass
22 mailing, e-mail blast, text blast, QUALIFYING PAID DIGITAL COMMUNICATION, or
23 telephone bank to the general public, or any other form of general public political
24 advertising.

25 (ii) "Public communication" does not include:

26 1. a news story, a commentary, or an editorial disseminated
27 by a broadcasting station, including a cable television operator, programmer, or producer,
28 satellite television or radio provider, Web site, newspaper, magazine, or other periodical
29 publication, including any Internet or electronic publication, that is not controlled by a
30 candidate or political party;

31 2. an internal membership communication by a business or
32 other entity to its stockholders or members and executive and administrative personnel
33 and their immediate families, or by a membership entity, as defined under § 13-243 of this
34 title, to its members, executive and administrative personnel and their immediate families;
35 or

36 3. a candidate debate or forum.

1 (7) “Telephone bank” means more than 500 telephone calls of an identical
2 or substantially similar nature within any 30-day period.

3 (8) “Text blast” means a transmission of text messages of an identical or
4 substantially similar nature to 5,000 or more telephone numbers simultaneously.

5 (b) Within 48 hours after a person makes aggregate independent expenditures of
6 \$5,000 or more in an election cycle for campaign material that is a public communication,
7 the person shall file a registration form with the State Board.

8 (c) Within 48 hours after a day on which a person makes aggregate independent
9 expenditures of \$10,000 or more in an election cycle for campaign material that is a public
10 communication, the person shall file an independent expenditure report with the State
11 Board.

12 (d) A person who files an independent expenditure report under subsection (c) of
13 this section shall file an additional independent expenditure report with the State Board
14 within 48 hours after a day on which the person makes aggregate independent
15 expenditures of \$10,000 or more for campaign material that is a public communication
16 following the closing date of the person’s previous independent expenditure report.

17 (e) An independent expenditure report shall include the following information:

18 (1) the identity of the person making the independent expenditures and of
19 the person exercising direction or control over the activities of the person making the
20 independent expenditures;

21 (2) the business address of the person making the independent
22 expenditures;

23 (3) the amount and date of each independent expenditure during the period
24 covered by the report and the person to whom the expenditure was made;

25 (4) the candidate or ballot issue to which the independent expenditure
26 relates and whether the independent expenditure supports or opposes that candidate or
27 ballot issue; and

28 (5) the identity of each person who made cumulative donations of \$6,000
29 or more to the person making the independent expenditures during the period covered by
30 the report.

31 13-307.

32 (a) (1) In this section the following words have the meanings indicated.

1 (2) (i) “Donation” means the gift or transfer, or promise of gift or
2 transfer, of money or other thing of value to a person that makes disbursements for
3 electioneering communications.

4 (ii) “Donation” does not include any amount of money or any other
5 thing of value:

6 1. received by a person in the ordinary course of any trade or
7 business conducted by the person, whether for profit or not for profit, or in the form of
8 investments in the person’s business; or

9 2. A. that the donor and the person receiving the money
10 or thing of value expressly agree in writing may not be used for electioneering
11 communications; and

12 B. in the case of a monetary donation, is deposited in a
13 separate bank account that is never used for electioneering communications.

14 (3) (i) “Electioneering communication” means a broadcast television or
15 radio communication, a cable television communication, a satellite television or radio
16 communication, a mass mailing, an e-mail blast, a text blast, a telephone bank, A
17 **QUALIFYING PAID DIGITAL COMMUNICATION**, or an advertisement in a print
18 publication that:

19 1. refers to a clearly identified candidate or ballot issue;

20 2. is made within 60 days of an election day on which the
21 candidate or ballot issue is on the ballot;

22 3. is capable of being received by:

23 A. 50,000 or more individuals in the constituency where the
24 candidate or ballot issue is on the ballot, if the communication is transmitted by television
25 or radio; or

26 B. 5,000 or more individuals in the constituency where the
27 candidate or ballot issue is on the ballot, if the communication is a mass mailing, an e-mail
28 blast, a text blast, a telephone bank, A **QUALIFYING PAID DIGITAL COMMUNICATION**, or
29 an advertisement in a print publication; and

30 4. is not made in coordination with, or at the request or
31 suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a
32 candidate, or a ballot issue committee.

33 (ii) “Electioneering communication” does not include:

1 1. an independent expenditure;

2 2. a news story, a commentary, or an editorial disseminated
3 by a broadcasting station, including a cable television operator, programmer, or producer,
4 or satellite television or radio provider, WEBSITE, NEWSPAPER, MAGAZINE, OR OTHER
5 PERIODICAL PUBLICATION, INCLUDING ANY INTERNET OR ELECTRONIC
6 PUBLICATION, that is not controlled by a candidate or political party;

7 3. a candidate debate or forum;

8 4. an internal membership communication by a business or
9 other entity to its stockholders or members and executive and administrative personnel
10 and their immediate families, or by a membership entity, as defined under § 13–243 of this
11 title, to its members, executive and administrative personnel and their immediate families;
12 or

13 5. a communication that proposes a commercial transaction.

14 (iii) For purposes of this paragraph, “clearly identified” means:

15 1. the name of a candidate appears;

16 2. a photograph or drawing of a candidate appears; or

17 3. the identity of a candidate or ballot issue is apparent by
18 unambiguous reference.

19 (4) “E–mail blast” means a transmission of electronic mail messages of an
20 identical or substantially similar nature to 5,000 or more e–mail accounts simultaneously.

21 (5) “Mass mailing” means a mailing by United States mail or facsimile of
22 more than 5,000 pieces of mail matter of an identical or substantially similar nature within
23 any 30–day period.

24 (6) (i) “Person” includes an individual, a partnership, a committee, an
25 association, a corporation, a labor organization, or any other organization or group of
26 persons.

27 (ii) “Person” does not include a campaign finance entity organized
28 under Subtitle 2, Part II of this title.

29 (7) “Telephone bank” means more than 5,000 telephone calls of an identical
30 or substantially similar nature within any 30–day period.

31 (8) “Text blast” means a transmission of text messages of an identical or
32 substantially similar nature to 5,000 or more telephone numbers simultaneously.

1 **(b)** Within 48 hours after a person makes aggregate disbursements of \$5,000 or
2 more in an election cycle for electioneering communications, the person shall file a
3 registration form with the State Board.

4 **(c)** Within 48 hours after a day on which a person makes aggregate
5 disbursements of \$10,000 or more in an election cycle for electioneering communications,
6 the person shall file an electioneering communication report with the State Board.

7 **(d)** A person who files an electioneering communication report under subsection
8 (c) of this section shall file an additional electioneering communication report with the
9 State Board within 48 hours after a day on which the person makes aggregate
10 disbursements of \$10,000 or more for electioneering communications following the closing
11 date of the person's previous electioneering communication report.

12 **(e)** An electioneering communication report shall include the following
13 information:

14 **(1)** the identity of the person making disbursements for electioneering
15 communications and of the person exercising direction or control over the activities of the
16 person making the disbursements for electioneering communications;

17 **(2)** the business address of the person making the disbursements for
18 electioneering communications;

19 **(3)** the amount and date of each disbursement for electioneering
20 communications during the period covered by the report and the person to whom the
21 disbursement was made;

22 **(4)** the candidate or ballot issue to which the electioneering
23 communications relate; **AND**

24 **(5)** the identity of each person who made cumulative donations of \$6,000
25 or more to the person making the disbursements for electioneering communications during
26 the period covered by the report.

27 13-401.

28 **(a)** **(1)** Except as otherwise provided in this section, each item of campaign
29 material shall contain, set apart from any other message, an authority line that states:

30 **(i)** as to campaign material published [or], distributed, **OR**
31 **DISSEMINATED** by a campaign finance entity:

32 **1.** the name and address of the treasurer of each campaign
33 finance entity responsible for the campaign material; and

1 2. as to each treasurer named under item 1 of this item, the
2 name of each campaign finance entity for which the treasurer is acting; and

3 (ii) as to campaign material published [or], distributed, OR
4 DISSEMINATED by any other person, the name and address of the person responsible for
5 the campaign material.

6 (2) The authority line may omit an address that is on file with the State
7 Board or a local board.

8 (3) If the campaign material is too small to include all the information
9 specified in paragraph (1) of this subsection in a legible manner, the authority line need
10 only contain the [name and title of the treasurer or other person responsible for it]
11 INFORMATION REQUIRED BY REGULATIONS ADOPTED BY THE STATE BOARD.

12 (4) The authority line for campaign material that is a commercial
13 advertisement need only contain the information specified in paragraphs (1) and (2) of this
14 subsection for one campaign finance entity or other person responsible for the
15 advertisement.

16 (b) Campaign material that is published or distributed in support of or in
17 opposition to a candidate, but is not authorized by the candidate, shall include the following
18 statement:

19 “This message has been authorized and paid for by (name of payor or any
20 organization affiliated with the payor), (name and title of treasurer or president). This
21 message has not been authorized or approved by any candidate.”

22 13-403.

23 (a) (1) Subject to paragraph (2) of this subsection, each campaign finance
24 entity, EACH PERSON REQUIRED TO REGISTER UNDER § 13-306(B) OF THIS TITLE,
25 AND EACH PERSON REQUIRED TO REGISTER UNDER § 13-307(B) OF THIS TITLE THAT
26 IS responsible for, publisher of, and distributor of, an item of campaign material shall keep
27 a sample copy of the item for at least 1 year after the general election next following the
28 date when the item was published or distributed.

29 (2) For each item of campaign material disseminated through the Internet,
30 the sample copy shall be:

31 (i) a paper facsimile; or

32 (ii) a copy on an electronic medium that can be produced as a paper
33 facsimile on request.

1 (b) Subsection (a) of this section does not apply to a billboard or a sign.

2 13-405.

3 (A) (1) A PERSON WHO DIRECTLY OR INDIRECTLY REQUESTS
 4 PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION ON AN ONLINE
 5 PLATFORM SHALL EXPRESSLY NOTIFY THE ONLINE PLATFORM AT THE TIME THE
 6 REQUEST FOR PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION IS
 7 MADE THAT THE COMMUNICATION IS A QUALIFYING PAID DIGITAL
 8 COMMUNICATION.

9 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
 10 SUBSECTION:

11 (I) SHALL BE PROVIDED USING THE METHOD PRESCRIBED BY
 12 THE ONLINE PLATFORM; AND

13 (II) MAY NOT BE PROVIDED THROUGH THE INCLUSION OF THE
 14 AUTHORITY LINE REQUIRED UNDER § 13-401 OF THIS SUBTITLE ON THE
 15 QUALIFYING PAID DIGITAL COMMUNICATION.

16 (3) IF AN ONLINE PLATFORM DOES NOT PROVIDE A METHOD FOR A
 17 REQUESTER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO GIVE NOTICE AS
 18 REQUIRED BY PARAGRAPH (2)(I) OF THIS SUBSECTION, THE REQUESTER SHALL:

19 (I) NOTIFY THE STATE BOARD THAT THE ONLINE PLATFORM IS
 20 NOT IN COMPLIANCE WITH PARAGRAPH (2)(I) OF THIS SUBSECTION; AND

21 (II) PROVIDE THE INFORMATION REQUIRED UNDER
 22 SUBSECTION ~~(B)(5)~~ (B)(6) OF THIS SECTION TO THE STATE BOARD.

23 (B) (1) AN ONLINE PLATFORM SHALL MAKE AVAILABLE FOR PUBLIC
 24 INSPECTION ON THE INTERNET IN A MACHINE-READABLE FORMAT THE RECORDS
 25 DESCRIBED IN PARAGRAPH ~~(5)~~ (6) OF THIS SUBSECTION REGARDING QUALIFYING
 26 PAID DIGITAL COMMUNICATIONS DISSEMINATED THROUGH THE ONLINE PLATFORM
 27 FOR WHICH THE ONLINE PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH
 28 SUBSECTION (A) OF THIS SECTION.

29 (2) AN ONLINE PLATFORM SHALL ALLOW THE PUBLIC TO SEARCH
 30 THE RECORDS DESCRIBED IN PARAGRAPH ~~(5)~~ (6) OF THIS SUBSECTION BY
 31 PURCHASER.

32 (3) THE EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
 33 SUBSECTION, THE RECORDS DESCRIBED IN PARAGRAPH ~~(5)~~ (6) OF THIS

1 SUBSECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION ON THE INTERNET IN
2 A CLEARLY IDENTIFIABLE LOCATION ON THE ONLINE PLATFORM'S HOMEPAGE
3 WEBSITE:

4 (I) WITHIN 48 HOURS AFTER A QUALIFYING PAID DIGITAL
5 COMMUNICATION IS PURCHASED; AND

6 (II) FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION
7 FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISSEMINATED THE
8 QUALIFYING PAID DIGITAL COMMUNICATION TO WHICH THE RECORDS RELATE.

9 (4) FOR PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION, A
10 PERSON SHALL BE CONSIDERED TO HAVE PURCHASED A QUALIFYING PAID DIGITAL
11 COMMUNICATION IF THE PERSON HAS EXECUTED A CONTRACT TO PURCHASE A
12 QUALIFYING PAID DIGITAL COMMUNICATION.

13 (5) (I) AN ONLINE PLATFORM MAY APPLY TO THE STATE BOARD
14 FOR A COMPLIANCE WAIVER TO ALLOW THE ONLINE PLATFORM TO MAKE THE
15 RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION AVAILABLE FOR
16 PUBLIC INSPECTION ON THE INTERNET WITHIN UP TO 7 DAYS AFTER A QUALIFYING
17 PAID DIGITAL COMMUNICATION IS PURCHASED.

18 (II) THE STATE BOARD SHALL REQUIRE AN APPLICANT FOR A
19 COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO:

20 1. DESCRIBE WHY COMPLYING WITH THE
21 REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION PRESENTS AN
22 UNREASONABLE BURDEN ON THE APPLICANT; AND

23 2. PRESENT MEASURES THE APPLICANT WILL TAKE TO
24 MEET THE REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 6
25 MONTHS AFTER THE DATE THE COMPLIANCE WAIVER IS GRANTED.

26 (III) THE STATE BOARD MAY NOT GRANT:

27 1. MORE THAN ONE COMPLIANCE WAIVER TO AN ONLINE
28 PLATFORM; AND

29 2. A COMPLIANCE WAIVER TO AN ONLINE PLATFORM
30 WITHIN 30 DAYS BEFORE AN ELECTION.

31 (IV) A COMPLIANCE WAIVER IS NOT EFFECTIVE DURING THE 30
32 DAYS IMMEDIATELY PRECEDING AN ELECTION.

1 ~~(IV)~~ (V) IF AN ONLINE PLATFORM WILL APPLY FOR A
2 COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ONLINE
3 PLATFORM SHALL APPLY FOR THE COMPLIANCE WAIVER BEFORE RECEIVING
4 PAYMENT FOR A QUALIFYING PAID DIGITAL COMMUNICATION.

5 ~~(5)~~ (6) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION A
6 PURCHASER REQUESTS TO DISSEMINATE THROUGH AN ONLINE PLATFORM AND FOR
7 WHICH THE PURCHASER HAS PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION
8 (A) OF THIS SECTION, THE ONLINE PLATFORM SHALL MAINTAIN THE FOLLOWING
9 RECORDS:

10 (I) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION
11 PURCHASED BY A POLITICAL COMMITTEE:

12 1. THE NAME OF THE PERSON AND ANY CONTACT
13 INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE
14 POLITICAL COMMITTEE; ~~AND~~

15 2. THE TREASURER OF THE POLITICAL COMMITTEE; ~~AND~~

16 3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE
17 ONLINE PLATFORM FOR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL
18 COMMUNICATION;

19 (II) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION
20 PURCHASED BY A PERSON OTHER THAN A POLITICAL COMMITTEE ~~OR AN AD~~
21 NETWORK:

22 1. THE NAME OF THE PERSON AND ANY CONTACT
23 INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE PERSON;
24 ~~AND~~

25 2. THE IDENTITY OF THE INDIVIDUALS EXERCISING
26 DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON, INCLUDING THE
27 CHIEF EXECUTIVE OFFICER OR BOARD OF DIRECTORS, IF APPLICABLE; ~~AND~~

28 3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE
29 ONLINE PLATFORM FOR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL
30 COMMUNICATION; ~~AND~~

31 ~~(III) THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE~~
32 ~~ONLINE PLATFORM FOR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL~~
33 ~~COMMUNICATION, UPDATED WEEKLY FOR EACH QUALIFYING PAID DIGITAL~~
34 ~~COMMUNICATION PURCHASED BY AN AD NETWORK;~~

1 1. THE CONTACT INFORMATION FOR THE AD NETWORK;

2 OR

3 2. A HYPERLINK TO THE AD NETWORK'S WEBSITE WHERE
4 THE CONTACT INFORMATION IS LOCATED.

5 (C) (1) AN ONLINE PLATFORM SHALL MAINTAIN AND MAKE AVAILABLE
6 TO THE STATE BOARD ON REQUEST THE RECORDS DESCRIBED IN PARAGRAPH ~~(4)~~
7 ~~(3)~~ OF THIS SUBSECTION REGARDING QUALIFYING PAID DIGITAL COMMUNICATIONS
8 DISSEMINATED THROUGH THE ONLINE PLATFORM FOR WHICH THE ONLINE
9 PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS
10 SECTION.

11 ~~(2) AN ONLINE PLATFORM SHALL ALLOW THE STATE BOARD TO~~
12 ~~SEARCH THE RECORDS DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION BY~~
13 ~~CANDIDATE, BALLOT ISSUE, PURCHASER, AND DATE.~~

14 ~~(3)~~ (2) THE RECORDS DESCRIBED IN PARAGRAPH ~~(4)~~ ~~(3)~~ OF THIS
15 SUBSECTION SHALL BE AVAILABLE ON THE REQUEST OF THE STATE BOARD:

16 (I) WITHIN 48 HOURS AFTER A QUALIFYING PAID DIGITAL
17 COMMUNICATION IS FIRST DISSEMINATED ON THE ONLINE PLATFORM; AND

18 (II) FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION
19 FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISSEMINATED THE
20 QUALIFYING PAID DIGITAL COMMUNICATION TO WHICH THE RECORDS RELATE.

21 ~~(4)~~ (3) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION A
22 PURCHASER REQUESTS TO DISSEMINATE THROUGH AN ONLINE PLATFORM AND FOR
23 WHICH THE PURCHASER HAS PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION
24 (A) OF THIS SECTION, THE ONLINE PLATFORM SHALL MAINTAIN THE FOLLOWING
25 RECORDS:

26 (I) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE
27 QUALIFYING PAID DIGITAL COMMUNICATION RELATES AND WHETHER THE
28 QUALIFYING PAID DIGITAL COMMUNICATION SUPPORTS OR OPPOSES THAT
29 CANDIDATE OR BALLOT ISSUE;

30 (II) THE DATES AND TIMES THAT THE QUALIFYING PAID DIGITAL
31 COMMUNICATION WAS FIRST DISSEMINATED AND LAST DISSEMINATED, ~~UPDATED~~
32 ~~WEEKLY;~~

1 (III) A DIGITAL COPY OF THE CONTENT OF THE QUALIFYING PAID
2 DIGITAL COMMUNICATION;

3 (IV) AN APPROXIMATE DESCRIPTION OF THE GEOGRAPHIC
4 LOCATIONS WHERE THE QUALIFYING PAID DIGITAL COMMUNICATION WAS
5 DISSEMINATED, ~~UPDATED WEEKLY;~~

6 (V) AN APPROXIMATE DESCRIPTION OF THE AUDIENCE THAT
7 RECEIVED OR WAS TARGETED TO RECEIVE THE QUALIFYING PAID DIGITAL
8 COMMUNICATION, ~~UPDATED WEEKLY;~~ AND

9 (VI) THE TOTAL NUMBER OF IMPRESSIONS GENERATED BY THE
10 QUALIFYING PAID DIGITAL COMMUNICATION, ~~UPDATED WEEKLY.~~

11 (5) INFORMATION OBTAINED BY THE STATE BOARD UNDER THIS
12 SUBSECTION IS NOT SUBJECT TO INSPECTION UNDER THE PUBLIC INFORMATION
13 ACT.

14 (D) (1) A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION
15 SHALL PROVIDE THE ONLINE PLATFORM THAT DISSEMINATES THE QUALIFYING
16 PAID DIGITAL COMMUNICATION WITH THE INFORMATION NECESSARY FOR THE
17 ONLINE PLATFORM TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

18 (2) AN ONLINE PLATFORM MAY RELY IN GOOD FAITH ON THE
19 INFORMATION PROVIDED BY A PURCHASER OF A QUALIFYING PAID DIGITAL
20 COMMUNICATION TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

21 (E) AN ONLINE PLATFORM SHALL MAKE REASONABLE EFFORTS TO ALLOW
22 THE STATE BOARD TO:

23 (1) OBTAIN THE INFORMATION REQUIRED UNDER SUBSECTIONS (B)
24 AND (C) OF THIS SECTION;

25 (2) OBTAIN THE INFORMATION THAT A PURCHASER OF A QUALIFYING
26 PAID DIGITAL COMMUNICATION PROVIDED TO THE ONLINE PLATFORM IN
27 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

28 (3) OTHERWISE REQUEST THAT A PURCHASER OF A QUALIFYING PAID
29 DIGITAL COMMUNICATION COMPLY WITH THIS SECTION OR § 13-401 OF THIS
30 SUBTITLE.

31 (F) AN ONLINE PLATFORM THAT DISSEMINATES QUALIFYING PAID DIGITAL
32 COMMUNICATIONS SHALL MAKE REASONABLE EFFORTS, IN ACCORDANCE WITH THE
33 FEDERAL STORED COMMUNICATIONS ACT, TO COMPLY WITH ANY SUBPOENA THAT

1 IS ISSUED IN CONNECTION WITH AN INVESTIGATION CONCERNING THE COMPLIANCE
2 OF A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION WITH THIS
3 SECTION OR § 13-401 OF THIS SUBTITLE.

4 13-405.1.

5 (A) (1) THE STATE ADMINISTRATOR MAY INVESTIGATE A POTENTIAL
6 VIOLATION OF § 13-401 OR § 13-405 OF THIS SUBTITLE BY A PURCHASER OF A
7 QUALIFYING PAID DIGITAL COMMUNICATION.

8 (2) IN FURTHERANCE OF AN INVESTIGATION UNDER PARAGRAPH (1)
9 OF THIS SUBSECTION, THE STATE ADMINISTRATOR MAY ISSUE A SUBPOENA FOR
10 THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS.

11 (3) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED
12 IN ACCORDANCE WITH THE MARYLAND RULES.

13 (4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
14 THIS SUBSECTION, ON PETITION OF THE STATE ADMINISTRATOR, A CIRCUIT COURT
15 OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

16 (B) (1) AT THE CONCLUSION OF AN INVESTIGATION UNDER SUBSECTION
17 (A)(1) OF THIS SECTION, SUBJECT TO PARAGRAPH (2) OF THE SUBSECTION, THE
18 STATE BOARD MAY REQUEST THAT THE ATTORNEY GENERAL INSTITUTE AN ACTION
19 IN A CIRCUIT COURT FOR INJUNCTIVE RELIEF IN ACCORDANCE WITH THE
20 MARYLAND RULES TO:

21 (I) REQUIRE A PURCHASER OF A QUALIFYING PAID DIGITAL
22 COMMUNICATION TO COMPLY WITH § 13-401 OR § 13-405 OF THIS SUBTITLE; OR

23 (II) REQUIRE AN ONLINE PLATFORM TO REMOVE A QUALIFIED
24 PAID DIGITAL COMMUNICATION THAT DOES NOT COMPLY WITH § 13-401 OF THIS
25 SUBTITLE OR IF THE PURCHASER OF THE COMMUNICATION DOES NOT COMPLY WITH
26 § 13-405 OF THIS SUBTITLE.

27 (2) BEFORE REQUESTING THAT THE ATTORNEY GENERAL SEEK AN
28 INJUNCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE BOARD
29 SHALL:

30 (I) NOTIFY A PURCHASER OF A QUALIFYING PAID DIGITAL
31 COMMUNICATION WHO IS THE SUBJECT OF AN INVESTIGATION OF THE
32 CIRCUMSTANCES THAT GAVE RISE TO THE INVESTIGATION; AND

1 (II) PROVIDE THE PERSON REASONABLE OPPORTUNITY TO BE
2 HEARD AT A PUBLIC MEETING OF THE STATE BOARD.

3 (3) A CIRCUIT COURT MAY GRANT INJUNCTIVE RELIEF UNDER THIS
4 SUBSECTION ONLY IF THE ATTORNEY GENERAL SHOWS BY CLEAR AND CONVINCING
5 EVIDENCE THAT A VIOLATION OF § 13-401 OR § 13-405 OF THIS SUBTITLE IS BEING
6 COMMITTED.

7 (4) A PERSON WHO VIOLATES AN INJUNCTION ISSUED UNDER THIS
8 SUBSECTION IS SUBJECT TO THE PENALTIES PROVIDED IN § 13-605(B) OF THIS
9 TITLE.

10 13-405.2.

11 (A) IN THIS SECTION, “ELECTIONEERING COMMUNICATION” HAS THE
12 MEANING STATED IN § 13-307(A) OF THIS TITLE.

13 (B) A PERSON MAY NOT PURCHASE CAMPAIGN MATERIAL OR AN
14 ELECTIONEERING COMMUNICATION USING ANY CURRENCY OTHER THAN UNITED
15 STATES CURRENCY.

16 (C) A PERSON MAY NOT WILLFULLY AND KNOWINGLY SELL CAMPAIGN
17 MATERIAL OR AN ELECTIONEERING COMMUNICATION TO A PERSON WHO USES ANY
18 CURRENCY OTHER THAN UNITED STATES CURRENCY TO PAY FOR THE CAMPAIGN
19 MATERIAL OR ELECTIONEERING COMMUNICATION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~
21 July 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.